



# **ELECTORAL MANAGEMENT BODIES IN NIGERIA SINCE 1958**



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# **ELECTORAL MANAGEMENT BODIES IN NIGERIA SINCE 1958**

*Lead Researchers*

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**Okechukwu Ndeche**

The Electoral Hub's study on Electoral Management Bodies (EMBs) in Nigeria since 1958 seeks to provide insights into the complex landscape of electoral process and governance in Nigeria. The knowledge product is aimed primarily at policymakers, election practitioners, civil society actors, academia, and politicians.

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# Foreword

**T**he history of electoral politics in Nigeria would not be complete without a thorough understanding of the role played by each successive Election Management Body (EMB) and Commission that have been established at various points in time to oversee the process of competition for public office.

Although there is a rich body of literature on Nigerian elections going back to the period after the Second World War, specific studies on the bodies that manage the country's electoral processes have been much fewer. Studies on reviews of electoral administration over the same historical span have been even sparser. It is this gap that this publication aims to fill; going back to 1959 and examining each election management body established since then in some detail.

Readers will enjoy the benefit of having a handy piece of research expertly carried out under the auspices of The Electoral Hub that provides an easy-to-digest and yet rich analytic assessment of the evolution of the key components of electoral administration in Nigeria, as represented by the various bodies set up to run elections. The historical and comparative insights in the study offer stakeholders in the Nigerian electoral system an excellent overview of the changes as well as the continuities in the creation of the country's election management bodies. Policy framers, election management practitioners, political leaders, activists, and academics will find useful information and recommendations from the study for the advancement of their work.

This latest offering from The Electoral Hub is a valuable and timely addition to the body of works on Nigerian electoral administration at this time. Amid electoral adjudication towards resolving electoral contestations from the 2023 general elections, efforts are ongoing to explore and tap various avenues for enhancing both the quality and integrity of elections in the country. The insights from this publication, including some of the key recommendations, should also provide useful food for thought at a time when the tenth

National Assembly is commencing the process of the amendment of the 1999 constitution. I salute The Electoral Hub for the value it has consistently brought some reflections on Nigerian elections and would like to commend this publication to readers as a useful companion.

**Adebayo Olukoshi,**

*Distinguished Professor, Wits School of Governance, Johannesburg*

*Chairman, The Electoral Forum, Abuja*

*May 2023.*

# Preface

**T**his research investigates and documents the complex history of Election Management Bodies (EMBs) and Commissions in Nigeria since 1958, offering a fresh perspective on the flows and ebbs in election management, of the clash of conflicting interests, as well as efforts towards inclusiveness and resistance to such efforts of successive EMBs since 1958. Beyond examining gender, age, and regional diversity within these bodies, the study untangles the distinct contributions of each EMB to evolution of Nigeria's electoral governance and progression. By doing so, it offers valuable insights that can inform future policy directions, aiming to catalyse positive developments in the electoral landscape.

Set within the dynamic framework of Nigeria's ever-evolving political and social contexts, this study highlights the interconnectedness between the various epochs of Nigeria's electoral regulatory frameworks, judicial rulings, and the forms and structures the EMBs have assumed. Though seemingly diverse, are nonetheless intricately connected. Recognising this intricate link, the research undertakes a comprehensive exploration aimed at shedding light on the nuanced intricacies and complexities within EMBs that have significantly influenced the country's electoral processes and experiences.

Employing a chronological periodisation of EMBs and Commissions throughout Nigeria's electoral history, the study offers a historical context surrounding the forming, structuring and functioning of these EMBs and Commissions. Across its eleven insightful chapters, the study laid bare an historical analysis of the six EMBs and fifteen Commissions in Nigeria from the establishment of the Electoral Commission for the Federation (ECF) in 1958 to the establishment of the Independent National Electoral Commission (INEC) in 1998, it meticulously examines electoral legal framework, EMBs powers and functions, their composition (showing gender, age, and regional inclusiveness / geographical representation), the nature of electoral competition, the broader political and social contexts within which each of the six EMBs and fifteen

Commissions operated, their actions and inactions in managing the electoral process, as well as their significant contributions, challenges and successes are examined in detail, expounding on the dynamics that have shaped Nigeria's electoral scene over the last seven decades.

As readers engage with the chapters and pages that ahead, we invite them to reflect on the challenges presented and carefully consider the recommendations provided. Our hope is for the book to emerge as an indispensable resource in policy circles, academic discourse, and among all individuals, institutions or agencies interested in enhancing the integrity of Nigerian elections. The book should additionally be pivotal in shaping Nigeria's trajectory towards a future where the principles of fairness, inclusivity, and transparency will flourish within its electoral sphere.

**Princess Hamman-Obels**

*Director, IRIAD – The Electoral Hub*

# Acknowledgments

**W**e would like to express our profound gratitude to the individuals and organisations whose contributions were instrumental in the initiation, conduct and completion of the research which has now produced the compendium on the composition, inclusiveness, and functionality of Election Management Bodies (EMBs) in Nigeria. Their support, expertise, and guidance were invaluable for data gathering and preparation of the research report.

We extend our sincere appreciation to OSIWA (Open Society Initiative for West Africa), now Open Society Foundations, which, under the directorship of Ayisha Osori, found this research worthy of funding. Its generous funding provided the necessary resources and infrastructure to undertake this comprehensive and innovative study. OSIWA's commitment to promoting transparency, accountability, and good governance provided the launching pad from which this research took off. In particular, we would like to thank the Executive Director, Dr Ibrahimida Aidara; Program Officer, Anglophone West Africa, Paul Adeyeye as well as the Security and Rights team - Tem Fuh and Idrissa Bindi. We also thank former staff – Catherine Angwai and Jude Ilo.

Similarly, we express our profound appreciation to INEC Chairman, Professor Mahmood Yakubu, for his support and warm reception of the study. In the same light, we are grateful to Professor Mohammad Kuna, the Special Adviser to the INEC Chairman, for his invaluable contributions to the success of this publication.

We are grateful to our esteemed external reviewers, Professor Adele Jinadu, Professor Nuhu Yaqub, Professor Gabriel Olatunde Babawale, Hajia Amina Zakari, Professor Mohammad Kuna, and Dr. Kole Shettima, for their valued insights, critical feedback, and rigorous review of the manuscript. Their combined academic scrutiny and industry expertise on the issues under investigation were very helpful in enriching the content and relevance of our research. In the same vein, we appreciate Professor Adebayo Olukoshi of

the Wits School of Governance, Johannesburg, for graciously writing the foreword to this book.

We thank Professor Maurice Iwu and Dr Ismail Igbani - the former Chairman and the former National Commissioner, respectively, of INEC, for granting us profound and helpful interviews for this project. Similarly, we are thankful to Abdularahman Madaki and Emmanuel Johnson, former INEC Deputy Secretaries, who were always willing to provide information when called upon. Finally, and very importantly, we are grateful to the lead researchers, Okechukwu Ndeche, and Princess Hamman-Obels and all the research assistants – Rukky Otive-Igbuzor, Divine Weldone, and Elizabeth Amodu as well as Barbara Ekprikpo and other individuals who provided valuable time, resources, and expertise to this endeavour. We are also thankful to Ibrahim Mohammed Machina, who helped in sourcing some hard-to-reach materials for the book. Their collective efforts and commitment to advancing knowledge and awareness on electoral governance in Nigeria have been indispensable.

While the personalities mentioned above have played significant roles, we acknowledge that this endeavour would not have been possible without the contributions of many other individuals and institutions that have supported the Initiative for Research, Innovation and Advocacy in Development (IRIAD) and its electoral arm, The Electoral Hub. We are deeply grateful for your unswerving support for our cause to producing knowledge for societal development.

IRIAD and The Electoral Hub thank you!

# Acronyms

ACDEG	African Charter on Democracy, Elections and Governance
AD	Alliance for Democracy
AFIS	Automated Fingerprint Identification System
AFRC	Armed Forces Ruling Council
AG	Action Group
APC	All Progressives Congress
APP	All Peoples Party
BVAS	Bi-modal Voter Accreditation System
CIL	Calabar Improvement League
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CDS	Centre for Democratic Studies
CO	Colonial Office
DDCM	Direct Data Capture Machine
ECF	Electoral Commission of the Federation
ECN	Electoral Commission of Nigeria
ECOWAS	Economic Community of West African States
EMBs	Electoral Management Bodies
FEC	Federal Electoral Commission
FMG	Federal Military Government
FEDECO	Federal Electoral Commission
GNPP	Great Nigeria Peoples Party
ICCES	Inter-Agency Consultative Committee on Election Security
ICCPR	International Covenant on Civil and Political Rights
INEC	Independent National Electoral Commission
ING -	Interim National Government
IASB	International African Service Bureau
IReV	INEC Results Viewing Portal
IRI	International Republican Institute
KNC	Kamerun National Congress

KPP	Kamerun People's Party
LYM	Lagos Youth Movement
MAMSER	Mass Mobilization for Self-Reliance, Social Justice, and Economic Recovery
MOBS	Modified Open Ballot System
NA	Not Available
NCNC	National Council of Nigeria and the Cameroons; changed to National Convention of Nigerian Citizens after Cameroon left the Eastern Region
NCP	National Conscience Party
NEC	National Electoral Commission
NECON	National Electoral Commission of Nigeria
NEPA	Northern Elements Progressive Association
NEPU	Northern Elements Progressive Union
NNA	Nigerian National Alliance
NNDP	Nigerian National Democratic Party
NPC	Northern People's Congress
NPN	National Party of Nigeria
NPP	Nigeria Peoples Party
NRC	National Republican Convention
NYM	Nigerian Youth Movement
NOA	National Orientation Agency
NYSC	National Youth Service Corps
OBS	Open Ballot System
OMR	Optical Mark Reader
PAF	Pan African Federation
PDP	People's Democratic Party
PPE	personal protective equipment
PRP	Peoples Redemption Party
PVC	Permanent Voter' Card
PwD	Persons with Disability
SCR	Smart Card Reader
SDP	Social Democratic Party
SIEC	State Independent Electoral Commission
UDHR	Universal Declaration of Human Rights
UPGA	United Progressive Grand Alliance
UPN	Unity Party of Nigeria
WASU	West African Students Union



# Executive Summary

**T**his study seeks to investigate, document and disseminate knowledge and awareness as well as provide information on the forming, structuring, and functioning of EMBs in Nigeria since 1958. The overall aim of this research is to deepen readers' understanding of the electoral process in Nigeria, as well as enhance electoral knowledge, and integrity. Its specific aims are:

- Increase knowledge and awareness of the forming, structuring, and functioning of the EMBs in Nigeria since 1958.
- Facilitate further research on EMBs and their role in the electoral process.  
Explore the effectiveness of EMBs and how to strengthen observed competencies.
- Inform future policymaking on elections in Nigeria, particularly regarding diversity and the selection process of EMB leadership.

Importantly, this study is a departure from previous research as it offers a holistic insight on each Electoral Management Body and Commission established in Nigeria since 1958. The study laid bare an historical analysis of the six EMBs and fifteen Commissions in Nigeria from the establishment of the Electoral Commission for the Federation (ECF) in 1958 to the establishment of the Independent National Electoral Commission (INEC) in 1998, it meticulously examines electoral legal framework, EMBs powers and functions, their composition (showing gender, age, and regional inclusiveness / geographical representation), the nature of electoral competition, the broader political and social contexts within which each of the six EMBs and fifteen Commissions operated, their actions and inactions in managing the electoral process, as well as their significant contributions, challenges and successes are examined in detail, expounding on the dynamics that have shaped Nigeria's electoral scene over the last seven decades. It is predicated on the position that the continually evolving socio-political environment in Nigeria is at the root of the diverse phases in the evolution of the Nigerian election regulatory frameworks, its associated judicial verdicts, and the evolution of the EMBs in the country.

The study notes the legal frameworks, landmark judicial decisions, and other influences that shape the functionality of EMBs in the country. The study periodises Nigeria's electoral history into epochs with the associated experiences of the EMBs that recognised four phases – the pre-independence era (1900 – 1960), the immediate post-independence era (from 1960 – 1966), the period in-between military regimes (1979 – 1983; 1985 – 1993; and current civilian/democratic experience (1998 – Date). The study has relied on a mix of primary and secondary data to allow for triangulation. The 11-chapter study provides a detailed examination of six election management bodies and fifteen electoral commissions from 1958 till date. The EMBs are the Electoral Commission (1958-1960); the Electoral Commission for the Federation (ECF) (1960-1966); the Federal Electoral Commission (FEDECO) (1976-1983); the National Electoral Commission (NEC) (1987-1993); the National Electoral Commission of Nigeria (NECON) (1995-1998); and the Independent National Electoral Commission (INEC) (1998 -date). EMBs and Commissions examined and their chairpersons are clearly shown in the table below:

S/N	Name of Body	Chairperson	Tenure
1	Electoral Commission (EC)	Mr. R.E Wraith	1958 – 1960
2	Electoral Commission for the Federation (ECF)	Mr. R.E Wraith	1960 – 1963
3	Electoral Commission for the Federation (ECF)	Sir Kofo Abayomi <sup>1</sup> Eyo E. Esua <sup>2</sup> Chief Michael Ani	1963 – 1964 1964 – 1965 1965 – 1966
4	Federal Electoral Commission (FEDECO)	Chief Micheal O. Ani	1976 – 1979
5	Federal Electoral Commission (FEDECO)	Hon. Justice V. Ovie-Whiskey	1980 – 1983
6	National Electoral Commission (NEC)	Professor Ema Awa	1987 – 1989

<sup>1</sup> Sir Kofo Abayomi resigned in April 1964, he spent less than a year in office, but conducted the Mid-Western House of Assembly Elections of February 1964

<sup>2</sup> Eyo Eta Esua resigned on December 15, 1965 and was replaced by Michael O. Ani on December 16, 1965. Michael Ani was never sworn in, as ECF and other political structures were disbanded by the military after the coup d'etat of January 15, 1966

7	National Electoral Commission (NEC)	Professor Humphrey Nwosu	1989 – 1993
8	National Electoral Commission (NEC)	Professor Okon Edet Uya	1993
9	National Electoral Commission of Nigeria (NECON)	Chief Sumner Dagogo – Jack	1995 – 1998
10	Independent National Electoral Commission (INEC)	Hon. Justice Ephraim O.I Akpata	1998 – 2000
11	Independent National Electoral Commission (INEC)	Dr. Abel I. Guobadia	2000 – 2005
12	Independent National Electoral Commission (INEC)	Professor Maurice Mmaduakolam Iwu	2005 – 2010
13	Independent National Electoral Commission (INEC)	Professor Attahiru Muhammadu Jega	2010 – 2015
14	Independent National Electoral Commission (INEC)	Professor Mahmood Yakubu	2015 – 2020
15	Independent National Electoral Commission (INEC)	Professor Mahmood Yakubu	2020 – Till Date

The study reveals the presence of severe inclusion gaps. Given the dominance of male membership coupled with a total absence of youth and PwD membership in successive electoral commissions, and the absence of affirmative action policies to effectively address these, EMBs stand a risk of introducing electoral policies, programmes and strategies that do not optimally factor in the needs of these diverse groups. An outcome could be the inadvertent disenfranchisement of women, youths and PwDs. The study has also revealed that EMBs at various times have contributed to the improvement of the country's electoral and democratic practices as they have adapted to socio-political and logistics challenges, and taken steps towards the improvement of elections. Even where problems are identified, these problems have formed the basis for the introduction of reforms which culminate in the incremental improvement of electoral practices in the country. The contribution of EMBs towards improved electoral conduct is however faced with challenges which can be addressed through the recommendations outlined in the concluding chapter.

# Introduction

Chapter



## 1.1 Background

**A**n electoral management body (EMB) is an organisation or body responsible for managing some or all elements that are essential for the conduct of elections, including voter registration, political parties, candidacy, polling, vote counting, vote tabulation, and result transmission.<sup>3</sup> These critical functions show that the acceptability of the outcome of elections depends largely on the effectiveness of the EMB. As such, EMBs are indispensable to a healthy representative democracy.

Since 1958, Nigeria's national EMB has been reconstituted several times and given various names such as Electoral Commission (EC)<sup>4</sup>; Electoral Commission of the Federation (ECF); Federal Electoral Commission (FEC); Federal Electoral Commission (FEDECO), National Electoral Commission (NEC); National Electoral Commission of Nigeria (NECON); and Independent National Electoral Commission (INEC). These EMBs have conducted elections with varying levels of integrity and credibility.

This research builds on other studies of elections and electoral administration in Nigeria such as Ahmadu Kurfi's 2013 *Sixty Years Long March Towards Democracy: Nigeria General Election 1951-2011*; OSIWA's 2011 *Election Management Bodies in West Africa: A Comparative Study of the Contribution of Electoral Commissions to the Strengthening of Democracy*<sup>5</sup>; Hounkpe and Fall's 2011 *Electoral Commissions in West Africa: A Comparative Study*. It also draws from the different reports on electoral reforms: 1986 Report of the Judicial Commission of Inquiry into the Affairs of Federal Electoral Commission (FEDECO), 1979-83 [Babalakin Report]; the 1987 Report of Political Bureau (the Politburo), the 2008 Electoral Reform Committee Report [Uwais Report].

<sup>3</sup> The ACE Project. (n.d.). *Electoral Management*. <https://aceproject.org/aceen/topics/em/ema/ema01>

<sup>4</sup> Commonly known as Electoral Commission of Nigeria (ECN). However, the legal provision states Electoral Commission

<sup>5</sup> See in particular the chapter on Nigeria by Professor Adele Jinadu

However, the perspective of this study is different from previous assessments as it focuses on providing more information on the composition of these EMBs – looking at inclusion by gender, and age (generation)<sup>6</sup>, as well as specific contributions of each EMB to electoral evolution in Nigeria – as there is a dearth of information about the composition of Nigeria's EMBs since 1958. The grave paucity of information and data about these critical criteria makes it difficult to effectively understand from a historical perspective, the impact of diversity and personality differences on the electoral process in Nigeria. The implications have been a lack of public understanding as to the influence on policymaking.

To address this issue, The Electoral Hub, an affiliate of the Initiative for Research, Innovation and Advocacy in Development (IRIAD), conducted this research with the funding support of the Open Society Initiative for West Africa (OSIWA). The study was involved in documenting and critically analysing the electoral management bodies and commissions in Nigeria since 1958, including their electoral legal framework (and constitutional changes), EMBs powers and functions, their composition (showing gender, age, and regional inclusiveness / geographical representation), the nature of electoral competition, the broader political and social contexts within which each of the six EMBs and fifteen Commissions operated, their actions and inactions in managing the electoral process, as well as their significant contributions, challenges and successes and lessons that can be learned from them. This study is intended to equip practitioners, policymakers, researchers, the public, and other electoral with knowledge on the evolution of EMBs and electoral commissions in Nigeria and allow for evidence-driven efforts at improvement.

## **1.2 Objectives of the Research**

The overall aim of this research is to deepen understanding of the electoral process in Nigeria, as well as promote electoral integrity and credibility. This is broken down into the following specific objectives:

- Increase knowledge and awareness of the composition of the EMBs in Nigeria since 1958.

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<sup>6</sup> Because of dearth of information, we could not do a PWD analysis of EMB membership

- Facilitate further research on EMBs and their role in the electoral process.
- Explore the effectiveness of EMBs and how to strengthen observed competencies.
- Inform future policymaking on elections in Nigeria, particularly regarding diversity and the selection process of EMB leadership.

### 1.3 Methodology

The methodology for this research involved a combination of interviews and desk research. We conducted several key informant interviews with current and former staff of Nigerian EMBs, including Chairmen, Directors, and Secretaries. We also consulted a variety of sources in our desk research. These sources included statutes, journal articles, reports and publications from INEC and election observer groups, media reports, and the website and verified social media handles of INEC. Materials consulted included autobiographies and memoirs of former Chairpersons and members of electoral management bodies in Nigeria which provided first-hand accounts of issues, achievements and challenges of electoral commissions in the country. Notably, the works of Ahmadu Kurfi, Secretary, Federal Electoral Commission (FEDECO), (1976 – 1980)<sup>7</sup>; Humphrey N. Nwosu, Chairman of NEC (1989 – 1993)<sup>8</sup>; and Abel Guobadia, Chairman of INEC (2000 – 2005)<sup>9</sup>, constituted invaluable sources of data for the study. Combining these data sources allowed for triangulation of findings and ensured accuracy of the research report.

The study report was reviewed by five eminent persons with the relevant knowledge, experience and expertise. These are: Professor Adele Jinadu, Commissioner, National Electoral Commission 1987 – 1992; Professor Nuhu Yaqub, former Vice Chancellor of the University of Abuja and Sokoto State University; Professor Gabriel Olatunde Babawale, Provost Anti-Corruption Academy of Nigeria and Commissioner of Lagos State Independent Electoral Commission; Hajia Amina Zakari, a two-term National Commissioner of INEC, 2010-2020; Professor Mohammad Kuna, special adviser to

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<sup>7</sup> Kurfi, A. (1983). *The Nigerian General Elections 1959 and 1979 and the Aftermath*. Lagos: Macmillan Nigerian Publishers Ltd

Kurfi, A. (2013) *Sixty Years Long March Towards Democracy (Nigerian General Elections 1951 – 2011)*. Ibadan: Safari Books Limited

<sup>8</sup> Nwosu, N. H. (2008). *Laying the Foundation for Nigeria's Democracy*. Lagos: Macmillan Nigeria Publishers Limited

<sup>9</sup> Guobadia, I. A. (2009). *Reflections of a Nigerian Electoral Umpire*. Benin: Mindex Publishing Co. Ltd

Guobadia, I. A. (2010). *An Autobiography: My Four Seasons*. Benin: Mindex Publishing Co. Ltd

INEC Chairman, Dr Kole Shettima, Africa Director, MacArthur Foundation. Their comments were thereafter incorporated to produce this publication.

#### **1.4 Structure of the Book**

This book has eleven chapters. This introductory chapter lays out the task of the book, its methodology and structure. Chapter two provides a background to the electoral process of Nigeria, including a brief history of elections since 1923, an overview of the electoral legal framework, including constitutional changes, and an explanation of how EMBs were established under colonial Nigeria. The chapter also discusses the socio-political contexts under which EMBs were formed across different epochs in Nigeria's history. Chapters three to nine discuss each of the six EMBs and fifteen electoral commissions from 1958 to date in detail, including their establishing statutory instruments, powers and functions, composition, management of the electoral process with examples of how issues were handled, significant contributions, challenges, successes and lessons to be learned from them. Chapter ten summarizes the findings while Chapter eleven contains the conclusion and recommendations.

From this publication, it is expected that a deeper understanding of the electoral process will emerge, which will subsequently inform policy making, particularly regarding the diversity and selection process of the leadership of EMBs. It is also expected that this publication will facilitate further research.

# Setting the Scene: EMBs and Elections in Nigeria

Chapter

2

**B**efore delving into the various EMBs and electoral commissions in Nigeria since 1958, it is important to first explain EMBs and Election Commissions, and provide a background on elections and EMBs in Nigeria. This chapter thus, provides a brief explanation of EMBs and Election Commission as well as explore the history of elections, provide an overview of the electoral legal framework, and explain how EMBs were established in Nigeria during the different political periods of the nation. This research on EMBs is critical to understanding the trajectory of Nigerian EMB development, particularly since Independence in 1960, as Election outcomes have both directly and indirectly led to a few crises such as military coups d'etat, which disrupted democratic rule during this period.

## 2.1 EMBs and Electoral Commissions

EMBs and Electoral Commissions are frequently used interchangeably. However, for this study, the two are differentiated to improve analytical clarity. EMBs are viewed here as the overarching institutions formed by legal instruments such as the Constitution and electoral laws, with the authority to oversee the whole election process. These entities are in charge of election management and administration, which includes election planning, voter registration, candidate nominations, election day operations, vote counting, and results announcements. As institutional frameworks, EMBs include all of the infrastructure, personnel, resources, and operational processes required to carry out their mission. In contemporary Nigeria, there are a total of 37 EMBs. At the federal level, there is INEC responsible for the conduct federal and state executive and legislative elections.<sup>10</sup> In each of the 36 States of the Federation, there is a State Independent Electoral Commission (SIEC), responsible for the conduct of local government elections.<sup>11</sup>

<sup>10</sup> These are the presidential, national assembly, governorship and state assembly elections

<sup>11</sup> These are the local chairmanship and councillorship elections



Electoral Commissions on the other hand, are used in this study to refer to the body of people assigned to the EMB for a specific period of time -tenure and term. Commissions are made up of appointed individuals, including the chairman and other commissioners, who serve term (s) as stipulated by the legislative framework that governs the EMB. These commissioners are responsible for providing the EMB with leadership and strategic direction for the set length of time. Their responsibilities include developing policies, making critical decisions, guaranteeing election law compliance, and upholding the electoral process, credibility and integrity. For example, in Nigeria, the Independent National Electoral Commission (INEC) serves as the EMB, while the INEC Commissions consists of the appointed commissioners who lead and direct the institution. Under INEC, there has therefore, been five Commissions, namely: the Akpata-led Commission, Guobadia-led Commission, Iwu-led Commission, Jega-led Commission, and the Yakubu-led Commission.

## **2.2 Brief History of Elections conducted in Nigeria Since 1923**

As of the time of finalising this book, Nigeria has had 100 years' experience in the conduct of elections, from 1923 when the first election was conducted by the colonial government to the 2023 General Election. Until 1999, elections in the country have been conducted at irregular intervals, with interruptions stemming from inconsistencies in patterns of electoral conduct under colonial rule and military interruptions. For instance, Nigeria has held 15 General Elections at irregular intervals until the establishment of the last EMB, the Independent National Electoral Commission (INEC) in 1998: 1951, 1954, 1959, 1964, 1979, 1983, 1992/93, 1997, 1998/99, 2003, 2007, 2011, 2015, 2019, 2023. The 1951, 1954, 1959 and 1964 General Elections were conducted under parliamentary system and others under presidential system. These elections have been conducted by six EMBs and fifteen Election Commissions.

Elections in Nigeria can be broken into five main periods: 1900-1959; 1960-1966; 1979-1983; 1987-1998<sup>12</sup>; 1999-date. The success or failure of the administration and conduct of these elections by the EMBs and Election Commissions have had a severe impact on the electoral history of the country.

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<sup>12</sup> 1985 – 1993 saw major electoral reforms, including the nature and structure of the EMB. Also, FEDECO was disbanded in 1983 due to the Babangida-led coup of December 1983. The next EMB, NEC came into being in 1987 and conducted LG Elections the same year. The attempt to return to civilian rule did not materialise until 1998 when INEC was formed to prepare for the 1999 Elections.

### 2.2.1 1900-1960 Pre-Independence Period

As noted by Festus Iyayi, a number of elections were held in Nigeria pre-independence. These began with the legislative council elections in Lagos and Calabar from 1922 and culminated in the national elections of 1958/59.<sup>13</sup> The first General Election in Nigeria was conducted on September 20, 1923 under Clifford Constitution. The Elective Principle was first introduced during this election,<sup>14</sup> when four elected seats out of a total of 46 Seats were introduced into the Legislative Council.<sup>15</sup> Three seats were reserved for Lagos, while one was reserved for Calabar.<sup>16</sup> These four seats were meant to cover representation to legislate for the Southern Provinces of Nigeria. The Northern Provinces were not represented by Nigerians in this New Legislative Council. As Kurfi noted, the legislative powers of the Council were restricted to the Colony (i.e., Lagos) and Southern Nigeria. The North was not represented in the Council,<sup>17</sup> but much of its legislation affected the North.<sup>18</sup> Despite collecting taxes from the Northern Provinces through indirect rule, the Governor retained the right to represent and legislate for them.<sup>19</sup> The Annual Colonial Report of 1926 on Nigeria provides details on the composition of the Council and the powers of the Governor thus:

This new Legislative Council consists of: The Governor, as President; twenty-six Official Members; three elected Unofficial Members representing the municipal area of Lagos and one representing the municipal area of Calabar; and not more than fifteen nominated Unofficial Members. These fifteen are selected to include nominees of the chambers of commerce of Lagos, Port Harcourt, Calabar, and Kano, of the local chamber of mines, and of the banking and shipping interests, together with members

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<sup>13</sup> Iyayi, F. (2006). Elections, INEC and the Problem of Election Mindsets in Nigeria. *TEI Lecture Series No.4*. Paper presented at INEC National Conference on "Nigeria's 2007 General Elections: The Challenges Ahead". Sheraton Hotel Abuja

<sup>14</sup> Dudley, B. (1982). *An Introduction to Nigerian Government and Politics*. London, Basingstoke: Macmillan Press Ltd.; Ibrahim, J. & Garuba, D. (2010). *A Study of the Independent National Electoral Commission of Nigeria*. Daker: CODESRIA

<sup>15</sup> The other 42 seats were filled by appointed members.

<sup>16</sup> 1922 Clifford Constitution of Nigeria, Section VI (1) & (2). The London Gazette June 29, 1923; Kurfi, A. (1983). *The Nigerian General Elections 1959 and 1979 and the Aftermath*. Lagos: Macmillan Nigerian Publishers Ltd.

<sup>17</sup> The Governor General legislated directly for the North

<sup>18</sup> Kurfi, A. (1983). *The Nigerian General Elections 1959 and 1979 and the Aftermath*. Lagos: Macmillan Nigerian Publishers Ltd.

<sup>19</sup> C.O. 583/111, Devonshire to Clifford, conf. 13 November 1922

representing African interests in parts of the Colony and the Southern Provinces of the Protectorate which do not return elected representatives to the Legislative Council. This Council legislates only for the Colony and the Southern Provinces of the Protectorate, and the Governor continues to legislate for the Northern Provinces of the Protectorate.<sup>20</sup>

According to Tamuno, the absence of Northern representation in the Legislative Council despite their taxation informed concerns about the key issues of representation and taxation<sup>21</sup>. The elections led to a victory for the Nigerian National Democratic Party (NNDP), co-founded by Herbert Macaulay the renowned Nigerian nationalist,<sup>22</sup> who gained even more popularity after arguing and winning a land case against the Colonial Government at the Privy Council in London on behalf of the Lagos high Chiefs.<sup>23</sup> NNDP won all of the three seats it contested for in Lagos.<sup>24</sup> The three NNDP Candidates were Joseph Egerton Shyngle of Gambian origin, Dr. Curtis Adeniyi-Jones and Eric Olawolu Moore.<sup>25</sup> Adeniyi-Jones was born in Sierra Leone to parents of Yoruba origin.<sup>26</sup> The fourth seat in Calabar was won by Prince Kwamina Ata-Amonu originally from the Gold Coast, who was sponsored by the Calabar Improvement League (CIL).<sup>27</sup> However, he is widely regarded as having stood as an independent candidate.<sup>28</sup> Calabar had no political parties running for election at the time. There were only pressure groups or political associations such as CIL and the Calabar Rate Payers Association. The latter sponsored C.W. Clinton, the runner up in Calabar, originally from the Sierra Leone, who also ran as an Independent.<sup>29</sup> Although there are no extensive accounts of the election, reports indicate that they were free and fair.<sup>30</sup> The 1923 elections are highly significant because they gave

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<sup>20</sup> Colonial Reports No. 1335. (1926). Nigeria: Report for 1926.

[https://libsysdigi.library.illinois.edu/ilharvest/Africana/Books2011-05/3064634/3064634\\_1926/3064634\\_1926\\_opt.pdf](https://libsysdigi.library.illinois.edu/ilharvest/Africana/Books2011-05/3064634/3064634_1926/3064634_1926_opt.pdf)

<sup>21</sup> Tamuno, T. N. (1967). "Governor Clifford and Representative Government" *Journal of the Historical Society of Nigeria* Vol. IV: No. I December

<sup>22</sup> <https://archivise.arch.lib.cam.ac.uk/agents/people/6707>

<sup>23</sup> <https://www.peoplesdailyng.com/we-remember-herbert-macaulay/>

<sup>24</sup> Keazor, E.E. (2014). *Five Nigerian Electoral Case Studies: 1923-1983*. <https://www.slideshare.net/EdKeazor/five-nigerian-electoral-case-studies>

<sup>25</sup> <https://www.slideshare.net/EdKeazor/five-nigerian-electoral-case-studies>

<sup>26</sup> <https://litcaf.com/adeniyi-jones-curtis-crispin/>

<sup>27</sup> Keazor, E.E. (2014). *Five Nigerian Electoral Case Studies: 1923-1983*. <https://www.slideshare.net/EdKeazor/five-nigerian-electoral-case-studies>

<sup>28</sup> Tamuno T.N. (1966) *Nigeria and Elective Representation 1923–1947*. Heinemann

<sup>29</sup> Ibid

<sup>30</sup> Ibid

Nigerians, the right to be involved in the law-making process for the first time. The legal frameworks and regulations for these elections were minimal compared to what obtained by the independence election of 1959. There was no EMB in name, the Governor-General made the electoral laws by Order in Council, and they were administered by colonial officers.

### **Electoral Regulations Dated June 1, 1923 Made Under the Nigeria (Legislative Council) Order in Council November 21, 1922**

#### **To Vote and Be Voted For:**

- “The franchise to vote and be voted for was limited to male adult (21 years of age)
- British Subjects or other Protected Persons or Natives of the Protectorate that have resided in Nigeria for over 12 months immediately preceding the date of registration in the municipality where the Elector seeks to vote.
- Gross annual income of at least 100 pounds in the year preceding the Election
- Anyone who had been sentenced by a competent British Court for a crime punishable by death, hard labour, or more than one year's imprisonment or who was of unsound mind was disqualified.”<sup>31</sup>

#### **Requirements to Stand for Election in 1923 in Lagos and Calabar**

Same as for voting including the following:

- “No undischarged bankruptcy
- Not Received charitable relief in the past five years
- Not a Public Servant
- Obtain the Nomination of at least three registered voters
- Pay a 10 Pound Deposit”<sup>32</sup>

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<sup>31</sup> 1922 Clifford Constitution of Nigeria, Section XX & XXI (Clifford Constitution)); Joan Wheare, *The Nigerian Legislative Council* (London: Faber and Faber, 1950) pp. 38-39 55-56

<sup>32</sup> 1922 Constitution of Nigeria, Section XV (1 - 6); Joan Wheare, *The Nigerian Legislative Council* (London: Faber and Faber, 1950) pp. 38-39 55-56

According to Joan Wheare<sup>33</sup> these regulations disqualified most residents of Lagos and Calabar. Many who were qualified didn't bother to register or vote. This seeming disinterest gave the colonial government no impetus to make changes for over two decades. It is not surprising that females were not given the vote by the British Colonial Government. After all, women could not vote in Britain at this time. British women had to fight for the right to vote and have control over themselves and their property. In 1918, only women over the age of 30 years with minimum property qualifications were given the right to vote. Women only got full voting rights in 1938 through the Representation of the People (Equal Franchise) Act. Prior to that, many of the wives of the Colonial Officers and staff of the Colonial Office couldn't vote either.

It was the British Subject or other protected persons and residency regulation<sup>34</sup> that allowed candidates like Egerton Shyngle, Prince Kwamina Ata-Amonu and C.W. Clinton to contest, even though they originated from outside the Nigerian territory. There was no Nigerian nationality until after independence when it had to be incorporated into the constitution.

Furthermore, these electoral regulations prevented the popular politician Herbert Macaulay from standing for election. He had been sentenced to more than one term of over a year and subjected to hard labour, both of which disqualified him. A prominent historian reviewed Macaulay's convictions and sentences and found some of them to be unfair or harsh.<sup>35</sup> Given that Macaulay was an arch nemesis of the colonial government of the day, the design might well have been to prevent him ever having a voice on the Legislative Council or any legislature.

The term of Legislative Councillors was five years as established by the 1922 Clifford Constitution, so elections continued to be held at regular intervals. However, Joseph Egerton-Shyngle died in 1926,<sup>36</sup> giving rise to Nigeria's first by-election. John Caulrick of the NNDF won with 67% of the vote. Other candidates were, P.J.C. Thomas (22%), Adeyemo Alakija (6%) and George Adebayo Adegbite (3%).<sup>37</sup> In 1928 and again in 1933,

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<sup>33</sup> Joan Wheare, *The Nigerian Legislative Council* (London: Faber and Faber, 1950) pp. 38-39 55-56

<sup>34</sup> 1922 Clifford Constitution of Nigeria, Section XX (1)

<sup>35</sup> Cole, P. (1975). *Modern and Traditional Elites in the Politics of Lagos*. London, New York: Cambridge University Press. p (147-148)

<sup>36</sup> <https://litcaf.com/adeniyi-jones-curtis-crispin/>

<sup>37</sup> Tamuno, T.N. (1966). *Nigeria and Elective Representation 1923–1947*, Heinemann, p122

the NNDP won the three seats in Lagos, while the C.W. Clinton, sponsored by the Calabar Ratepayers' Association won the seat in Calabar both times.<sup>38</sup>

The Lagos Youth Movement (LYM) was formed in opposition to the NNDP in 1934. NNDP were regarded as somewhat conservative by the youth of the day, as they seemed satisfied with just participating in the colonial government rather than pushing for self-rule and independence.<sup>39</sup> LYM was renamed Nigerian Youth Movement in 1936, and in 1938 went on to win all the seats in Lagos, defeating the dominant NNDP.<sup>40</sup> That Year, the Calabar election also threw up a surprise. During the campaign, Okon Effiong whipped up xenophobic sentiments against C.W. Clinton, the incumbent. Clinton was a respected professional lawyer and member of the Calabar community and had won the same election unopposed twice in a row in 1928 and 1933. Yet, suddenly Clinton was tagged as a foreigner because he was originally from Sierra Leone. The Ethnic Unions and Youth Movements began touting the slogan “No foreign Representative for Calabar”; hence, he refused to run.<sup>41</sup> Thus, the seat in Calabar was won by independent candidate, Okon Effiong, who was the sole candidate.<sup>42</sup> In 1940 and 1941, by-elections, which were held in Lagos to fill vacancies on the Legislative Council, due to the death of Olayinka Alakija and resignation of Dr. Kofo Abayomi respectively. The NYM won both elections.<sup>43</sup>

Following the end of the five-year term of the other two members in the Council, elections were again held in 1943 for only two seats. Here we see the advent of staggered elections. It was earlier stated that the death of Egerton-Shyngle in 1926 led to a by-election. Yet, in 1928 all the three seats in Lagos were contested again.<sup>44</sup> This was irrespective of the 1926 by-election winner having served only two years, and as per the British parliamentary practice at the time. In 1943, changes were made to election rules. Due to earlier by-elections in 1940 and 1941, the 1943 elections gave rise to general elections for only one seat each in Lagos and Calabar. This was because the incumbents had served the full 5-

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<sup>38</sup> Ibid

<sup>39</sup> <https://nokviews.com/2020/05/13/herbert-macaulay-and-the-conservative-phase-of-nigerian-resistance-and-nationalist-movement/>

<sup>40</sup> Kurfi, A. (1983). *The Nigerian General Elections 1959 and 1979 and the Aftermath*. Lagos: Macmillan Nigerian Publishers Ltd.

<sup>41</sup> African Print Cultures Network Meeting (2016), *African Print Cultures: Newspapers and Their Publics in the Twentieth Century*, p92, University of Michigan

<sup>42</sup> Ibid

<sup>43</sup> Sklar, R.L. (1963). *Nigerian Political Parties: Power in an Emergent African Nation*. New York: Nok Publishers

<sup>44</sup> Ibid

Year term. The two seats were won by independent candidates – E.A. Akerele who was unopposed in Lagos, and Okon Effiong, who won the Calabar seat.<sup>45</sup>

The election in Calabar was particularly significant because it was the first time the Calabar seat was contested since 1923. From 1928 to 1938, all candidates had been returned unopposed. It was a hotly fought election. The foreigner card was played against Gage Hewett Hall O'Dwyer during the campaigns, as it was against C.W. Clinton before him, in 1938. Although O'Dwyer's mother was from Calabar, the fact that his father was from Sierra Leone was used against him.<sup>46</sup>

As earlier mentioned, Nigeria now had staggered elections in Lagos. The by-elections of 1940 and 1941 meant staggered elections for the Legislative Council took place in 1945 and 1946 respectively. That of 1945 was somewhat uneventful. However, three days before the 1946 election, Ernest Ikoli of the NYM brought a court case against Adedoyin Adeleke of the NNDP to disqualify him from contesting due to not meeting the residential requirement.<sup>47</sup> Ikoli's motion was upheld by the Court on 14<sup>th</sup> March 1946. Adedoyin appealed and was allowed to contest the Election on 15<sup>th</sup> March, 1946, which he won. However, two weeks later, the Supreme Court nullified the Election and Ernest Ikoli was declared the winner.<sup>48</sup> The speed with which the case and the appeal were heard is in stark contrast to what obtains today.

The Clifford Constitution and the electoral provisions remained in place for well over a decade before any serious consideration was given to changes. Its successor, the Richards Constitution was based on proposals by Governor Sir Arthur Richards' predecessor Sir Bernard Bourdillon,<sup>49</sup> who governed Nigeria from 1935 and officially bowed out in 1943. He was ill for much of his tenure and the country had two acting Governors including Alan Burns who effectively doubled as Gold Coast Governor on at least two occasions.<sup>50</sup>

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<sup>45</sup> Ibid

<sup>46</sup> African Print Cultures Network Meeting (2016), *African Print Cultures: Newspapers and Their Publics in the Twentieth Century*, p92, University of Michigan

<sup>47</sup> Nolte, I. (2023). Obafemi Awolowo. In *Oxford Research Encyclopaedia of African History*.; John A. A. Ayoade. (1980). Electoral Laws and National Unity in Nigeria. *African Studies Review*, 23(2), 39–50. <https://doi.org/10.2307/523440>

<sup>48</sup> John A. A. Ayoade. (1980). Electoral Laws and National Unity in Nigeria. *African Studies Review*, 23(2), 39–50. <https://doi.org/10.2307/523440>

<sup>49</sup> Bourdillon, B., & Palmer, R. (1945). Nigerian Constitutional Proposals. *African Affairs*, 44(176), 120-124.

<sup>50</sup> Burns, A. (Ed.). (1966). *Parliament as an Export*. Routledge Library Editions: Colonialism and Imperialism Taylor & Francis. Republished in 2023 by Taylor & Francis Limited

Burns was a highly valued Member of the Colonial Service. Having been born and brought up in the West Indies, he mixed well with the 'natives' and attended events at the West African Students Union (WASU) in London, before he became governor of Ghana. WASU was mainly a pressure group seeking self-rule in West Africa. In addition, WASU provided services including accommodation for mainly West African Students in London, as with the colour prejudice of the day, they found it difficult to rent accommodation.<sup>51</sup> Having a London base, enabled them to effectively lobby the Colonial Office, Members of Parliament and other relevant political figures.<sup>52</sup>

From October 3, 1945 to October 4, 1946 George Hall was the Colonial Secretary.<sup>53</sup> His tenure started just after the end of the 2<sup>nd</sup> World War.<sup>54</sup> A time of intense pressure on Britain from the colonies that deemed it was pay-back time for helping Britain out during the war. Demands for self-rule heightened. African and West Indies Colonies were not left out. The 5<sup>th</sup> Pan African Conference was organized by the erstwhile International African Service Bureau (IASB), which metamorphosed into Pan African Federation (PAF) in 1944, especially for the purpose. The event was held in Manchester October 14-21, 1945.<sup>55</sup> Activists, mainly from African and West Indian colonies, some of whom went on to become leaders in their countries, gathered to discuss how they could obtain independence from Britain. In attendance were W.E.B. Du Bois, Kwame Nkrumah, Jomo Kenyatta, Hastings Banda, Nnamdi Azikiwe (Zik), Obafemi Awolowo, H.O. Davies, George Padmore, Ras T. Makonnen, Amy Ashwood Garvey and many others including two activists from South Asia, Surat Alley and T. Subasingha.<sup>56</sup> No wonder the conference is widely credited with being indirectly responsible for the independence of many African and West Indian countries.

Fired up on his return from the conference and supported his Pan Africanist friends in the diaspora, like C.L.R. James, George Padmore and Ras Makonnen of the PAF (who were

<sup>51</sup> Matera, M. (2008). *Black internationalism and African and Caribbean intellectuals in London, 1919–1950*. Rutgers The State University of New Jersey, School of Graduate Studies.

<sup>52</sup> Ibid

<sup>53</sup> <https://biography.wales/article/s2-HALL-HEN-1881>

<sup>54</sup> Lomas, D. W. (2016). Empire, Commonwealth and Security. In *Intelligence, Security and the Attlee Governments, 1945–51* (pp. 224-258). Manchester University Press.

<sup>55</sup> <https://www.blackpast.org/global-african-history/pan-african-congresses-1900-1945/>

<sup>56</sup> <https://lucas.leeds.ac.uk/article/rememering-the-fifth-pan-african-congress-christian-hogsbjerg/#:~:text=On%20Chorlton%20Town%20Hall%2C%20All.future%20leader%20of%20Kenya%2C%20the>



considered as communists), Zik went to work trying to make further input into the much-hyped Richards Constitution,<sup>57</sup> to achieve his desired unified political structure for Nigeria. Zik had already written a book to this end called *Political Blueprint of Nigeria* in 1943.<sup>58</sup> He updated his views and published articles in his newspapers and wrote letters to the Colonial Government and Office. The efforts of Zik, Awolowo, Anthony Enahoro and other nationalists like the Zikists, as well as activists in the diaspora made the colonialists work harder to produce a constitution that would prevent a revolt, but at the same time prolong independence. Andrew Cohen, the then Assistant Secretary of State in the Colonial Office, reviewed the draft to make it work<sup>59</sup>.

The Richards Constitution<sup>60</sup> was completed in 1946 and promulgated in January, 1947 with legislative elections conducted the same year (1947). This constitution formalised regionalisation. It divided Nigeria into three regions for the purpose of governance, administration, legislation and voting.<sup>61</sup> In other words, the 1946 constitution provided for the establishment of regional assemblies in the three regions into which Nigeria had been divided in 1938 but in the North and the West, besides the assemblies, there was also to be a House of Chiefs.<sup>62</sup>

The former Northern Protectorate was untouched, but the former Southern Protectorate was split into two, i.e. the Eastern and Western Regions. Each Region had its own Assembly to deliberate on and pass their own budgets and advise the Central Legislature in Lagos through their nominated representatives on general legislation. Although Members were elected from the provinces, in the North and West this was controlled by the Native Authority and ensured the status quo was maintained. The North had a bicameral legislature, the second tier was populated by traditional rulers who could veto regional budgets and originate motions.<sup>63</sup> Members of the Regional Assemblies were

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<sup>57</sup> Olusanya, G. O. (1966). The Zikist Movement—A study in political radicalism, 1946–50. *The Journal of Modern African Studies*, 4(3), 323-333.

<sup>58</sup> Azikiwe, N. (1943). *Political Blueprint of Nigeria*. African Book Company.

<sup>59</sup> Pearce, R. (1984). The Colonial Office and planned decolonization in Africa. *African Affairs*, 83(330), 77-93.

<sup>60</sup> Although the Constitution was conceived by Governor Bernard Bourdillon, it got its name from Arthur Richard because it was completed and promulgated when Arthur Richard was Governor

<sup>61</sup> Carol, H. (1968). The Making of Nigeria's Political Regions. *Journal of Asian and African Studies*, 3(3-4), 271-286.

<sup>62</sup> Dudley, B. (1982). *An Introduction to Nigerian Government and Politics*. London: The Macmillan Press

<sup>63</sup> Tongs, L. A., Fagbadebo, O., & Alabi, M. O. A. (2023). The Historical Overview of the Evolution of the Legislature in Nigeria. In *The Legislature in Nigeria's Presidential Democracy of the Fourth Republic: Power, Process, and Development* (pp. 21-37). Cham: Springer International Publishing.

elected or nominated from within to represent the regions in the Central Legislature.<sup>64</sup> Thus, elections to the centre were indirect. The Central Legislature still had an official member majority.

In fact, this was the first time, the North participated in the Central Legislature.<sup>65</sup> There were extensive discussions between the Emirs and Bourdillon, as well as Richards to persuade them. Prior to this they kept refusing, fearing they might be dominated or outmanoeuvred by the more practiced and western educated Southern politicians, who would not take cognisance of their religion and customs.

The elections to the Legislative Council continued and were still restricted to three seats in Lagos and one seat in Calabar. Under the Richard Constitution, the qualifications to participate in the 1947 Legislative Council election changed slightly to include more people. The hundred pounds annual income was reduced to fifty pounds,<sup>66</sup> which was still a lot of money for most people.

The NYM had been in disarray since the primaries for the by-election of 1941 contested by Akinsanya, Ernest Ikoli and Dr. Akinola Maja.<sup>67</sup> Although Akinsanya was a Vice President and founding member of NYM and won with 108 votes, the NYM Central Committee had the right to review the results.<sup>68</sup> They ruled in favour of Ikoli a founding member, who had recently replaced Kofo Abayomi as Party President, but only scored 60 votes. This led to cries of sectionalism against non-Lagos Yorubas from Akinsanya. Zik sided with him and they both left the Party with all their followers. Thus, factionalisation meant the NYM did not contest the 1946 by-election or the 1947 Legislative Council Elections under the Richard Constitution, paving the way for the NNDP to re-emerge as the dominant party. It would seem primary elections were purely a party affair, and nobody went to court over the intra-party dispute. Thus, in 1947, NNDP represented by Nnamdi Azikiwe, Dr. Abubakar Olorun-nimbe and Adeleke Adedoyin won all three seats in Lagos, while an independent candidate – E.E. Anwan – won the Calabar seat.<sup>69</sup>

<sup>64</sup> Awa, E. O. (1955). *Regionalism in Nigeria: A Study of Federalism*. New York: New York University.

<sup>65</sup> Oyovbaire, S. E. (1983). Structural Change and Political Processes in Nigeria. *African Affairs*, 82(326), p. 11.

<sup>66</sup> Seng, M. P. (1984). Democracy in Nigeria. *Black LJ*, 9, 113.

<sup>67</sup> Ojo, E. O. (2017). Ideology, Alliances and The Challenge of Sustainable Development in Nigeria-A Case Study of the United Progressive Grand Alliance. *Journal of Sustainable Development in Africa*, 19(4).

<sup>68</sup> Kotun, Y. A. (2013). Pipped at the Post. *The Nigerian Voice*, June 4.

<https://www.thenigerianvoice.com/news/115530/pipped-at-the-post.html>

<sup>69</sup> Tamuno, T.N. (1966) *Nigeria and Elective Representation 1923–1947*. Heinemann

Meanwhile, Awolowo had been studying law in London since 1945 and almost immediately started laying the foundations of a new party. Known initially as Egbe Omo Oduduwa, it eventually metamorphosed into the Action Group in 1951.<sup>70</sup> During his sojourn in London, Awolowo interacted with radical Pan Africanists like Padmore and Makonnen, as well as other nationalists, who frequented WASU's Office and/or lived in the hostels.<sup>71</sup> He wrote his highly acclaimed book *Path to Nigerian Freedom* in 1947.<sup>72</sup> The book set out Awolowo's views on the path to independence and the political and governance structure of an independent Nigeria. With the foreword written by Margery Perham,<sup>73</sup> the famous Oxford trained historian and colonial administrator, the Colonial Office had no choice but to start taking note of his views.

After leaving the NYM in anger in 1941, Zik stayed away from party politics for a while.<sup>74</sup> He focused his energy on fighting the NYM and the colonial government through his widely read *West African Pilot* and other provincial newspapers.<sup>75</sup>

The formation of the National Council of Nigeria and the Cameroons (NCNC) party, started in August 1944,<sup>76</sup> was completed by January 1945 in readiness for the Richards Constitution. Zik was invited to join the NCNC along with Herbert Macaulay and others, including members of the NYM. NCNC was born out of the desire to form a united front to tackle the colonialists and gain independence.<sup>77</sup> These aims were partially achieved when Macaulay became President of both the dying NNDP which he co-founded and the vibrant national NCNC Party. Zik was his deputy. Unfortunately, Macaulay died during the 1947 NCNC Tour of Nigeria to drum up support and enlighten people about their opposition to the proposed Richard's Constitution, as well as other new laws which were

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<sup>70</sup> Dudley, B. (1982). *An Introduction to Nigerian Government and Politics*. London, Basingstoke: Macmillan Press Ltd

<sup>71</sup> Grilli, M., Grilli, M., & Laddusaw. (2018). *Nkrumalism and African Nationalism*. Palgrave Macmillan.

<sup>72</sup> Van Den Bersselaar, D. (2011). A Nigerian nationalist in local politics: Obafemi Awolowo and the Making of Remo. The Local Politics of a Nigerian Nationalist. By Insa Nolte. Edinburgh: Edinburgh University Press for the International African Institute, 2009. Pp. xiii+321. £65, hardback (ISBN 978-0-7486-3895-6). The Journal of African History, 52(02), 258–260. doi:10.1017/s0021853711000326

<sup>73</sup> <https://www.econbiz.de/Record/path-to-nigerian-freedom-with-a-forew-by-margery-perham-awolowo-obafemi/10002303067>

<sup>74</sup> Obi-Ani, N. A., & Obi-Ani, P. (2015). Zikist Movement 1946–1950: A Reappraisal. *Nsukka Journal of the Humanities*, 23(2), 31-41.

<sup>75</sup> Ibid

<sup>76</sup> Kurfi, A. (1983). *The Nigerian General Elections 1959 and 1979 and the Aftermath*. Lagos: Macmillan Nigerian Publishers Ltd.

<sup>77</sup> Edo, V. O., & Fyanka, B. B. *Nationalist Movements and African Culture*.

<https://staff.run.edu.ng/oermedia/13358822094969.pdf>

Seen as retrogressive.<sup>78</sup> Zik then led both organisations and inherited Macaulay's support from the Lagos Chiefs, Market Women and others.<sup>79</sup> NNDP was affiliated to NCNC and eventually subsumed by it. Thus, the NCNC was made up of various organisations affiliated to it, such as trade, town and tribal unions that continued to join from various parts of the country. This gave NCNC a more national outlook, making it the first to be ready for participation the 1951 General Elections under the Macpherson Constitution, where the dominant party in a Regional Assembly would select those to go the Central Legislature, as well as Ministers representing the region in the Executive Council.

Political activity had already started in the North despite an absence of provisions for Northern representation in the legislative council of 1922. These activities began in 1939 with the organised expression of nationalist consciousness by graduates of Kaduna College, the only existing secondary school in the North under the aegis of the College Old Boys Association. During this period, political activities were viewed with suspicion and “within two years of its inauguration, the association was moribund.”<sup>80</sup> With its demise, the objectives of the old boys continued to be pursued in discussion groups, with subsisting suspicion among the conservative traditional and British ruling class. A number of these discussion groups, including the Zaria Friendly Association and the Bauchi Discussion Circle were disbanded for being too radical. Over time these political activities led some radicals to form and join Northern Elements Progressive Association (NEPA) in 1946. Many regarded NEPA as the first Northern political party.<sup>81</sup> Leading the way were Habib Raji Abdallah a founder, and Sa'adu Zungur who was an early member. Both had already found their way to the South for work and training purposes, they eventually joined forces with the Zikists and NCNC respectively.

<sup>78</sup> Azikiwe, N. (1968). *Renascent Africa*. Routledge. Originally published 1937

<sup>79</sup> Ibid

<sup>80</sup> Sklar, R. L., & Whitaker, C. S. (1991). *African Politics and Problems in Development*. Colorado: Lynne Rienner Publishers Inc. p. 30.

<sup>81</sup> Sifawa, A. A. (2017). Northern Elements Progressives Union (NEPU) and Struggle for Good Governance and Social Justice in Sokoto Province, 1950-1966. A Paper Presented at the Departmental Seminar, Organized by the Department of History, Faculty of Arts and Social Sciences, Sokoto State University, Sokoto. [https://www.researchgate.net/profile/Attahiru-Sifawa/publication/353289678\\_Northern\\_Elements\\_Progressives\\_Union\\_NEPU\\_and\\_Struggle\\_for\\_Good\\_Governance\\_and\\_Social\\_Justice\\_in\\_Sokoto\\_Province\\_1950-1966/links/60f17d9afb568a7098b29bda/Northern-Elements-Progressives-Union-NEPU-and-Struggle-for-Good-Governance-and-Social-Justice-in-Sokoto-Province-1950-1966.pdf](https://www.researchgate.net/profile/Attahiru-Sifawa/publication/353289678_Northern_Elements_Progressives_Union_NEPU_and_Struggle_for_Good_Governance_and_Social_Justice_in_Sokoto_Province_1950-1966/links/60f17d9afb568a7098b29bda/Northern-Elements-Progressives-Union-NEPU-and-Struggle-for-Good-Governance-and-Social-Justice-in-Sokoto-Province-1950-1966.pdf); Abba, A. (2007). *The Northern Elements Progressive Union and the Politics of Radical Nationalism in Nigeria 1938-1960*. Abdullahi Smith Centre for Historical Research.; Sifawa, A. A. *The Genesis of Political Thuggery in Party Politics in Modern Nigeria: A Case Study of Sokoto Province, 1950-1960*.

Although they both still had one leg in Northern parties like NEPU which was a reincarnation of the eventually proscribed NEPA.<sup>82</sup> Sa'adu Zungur was instrumental in forming many political associations and affiliated them to Northern Elements Progressive Association (NEPA) and Northern Elements Progressive Union (NEPU) and NCNC depending on which one he belonged to at the time.<sup>83</sup> NEPU was formed with the remnant from NEPA, including other northern activists like Aminu Kano and Maitama Sule when they were about to be kicked out of NPC by conservatives like Ahmadu Bello and Abubakar Tafawa Balewa for being too radical, although Aminu Kano had one leg outside initially because he was still teaching and a government employee.<sup>84</sup> Sa'adu Zungur ended up working closely with Zik in NCNC, they even went on a few working trips abroad. Poor health saw Zungur return to Bauchi and continue working from there for the northern masses and Nigeria till he died. As a Zikist, Raji Abdallah<sup>85</sup> was jailed along with others like Anthony Enahoro and O.C. Agwuna who became a thorn in the flesh of the colonialists for a while.

With the increased political activity, formation of parties and views expressed in newspapers, it was obvious to the Colonial Office that expectations about the Richards Constitution were high. The Colonial Office later asked Alan Burns to contribute to the Richards Constitution by working with Richards because his first draft was considered too conservative.<sup>86</sup> It was more detailed than Bourdillon's draft proposals. Official Members of the Legislative Council were still to be in the majority and Unofficial Members were to be nominated by Regional Governors, effectively making them stooges. This was based on the assumption that the Governors would only nominate those likely to maintain the status quo.

The Richards Constitution did not satisfy the nationalists including the NCNC, the Zikists or some of the NYM.<sup>87</sup> Various entreaties were made to the Colonial Office about the political expectations of Nigerians. After the NNDP trio won the 1947 Lagos

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<sup>82</sup> Anwar, A. (2019). *Politics as dashed hopes in Nigeria*. Safari Books Ltd.

<sup>83</sup> Yahaya, M. Y., & Adam, M. U. (2022). Analysis of Malam Sa'adu Zungur political thoughts on liberation of northern Nigerian political system. *International Journal of Intellectual Discourse*, 5(4), 176-183.

<sup>84</sup> <https://www.thisdaylive.com/index.php/2020/08/12/the-nepu-example>

<sup>85</sup> Raji Abdallah would in 1955 leave and eventually became a member of NPC.

<sup>86</sup> Burns, A. (2023). *History of Nigeria*. Routledge.

<sup>87</sup> Kurfi, A. (1983). *The Nigerian General Elections 1959 and 1979 and the Aftermath*. Lagos: Macmillan Nigerian Publishers Ltd.

Legislative Council elections, an NNDP mass meeting was held. The Lagos Chiefs, Market Women and Lagos Society People told Zik, Adedoyin and Olorunnimbe that as protest against the new Constitution, they should not take their seats on the Council until the colonialists change the Constitution to bring in a system of what Zik called “responsible government”.

Due to the dissatisfaction with the Richards Constitution which lacked inputs from Nigerians as there were no consultations with the Nigerian people, led by Zik, a group of politicians including one female, Mrs Funmilayo Ransome-Kuti, under the NCNC protested to the Colonial Secretary, Creech Jones, in London.<sup>88</sup> Creech-Jones however, did not respond favourably to their grievances and paid them scant attention.<sup>89</sup> He did however, investigate their other complaints, particularly those regarding obnoxious new laws. Their trip was not entirely in vain, as shortly afterwards, Richards was recalled to London, despite his manoeuvres to get an extension. This was followed by his elevation to lord, becoming the first Colonial Officer to get a peerage whilst still in Office. In 1947, Arthur Richard took his new seat in the House of Lords as the first Baron Milverton and contributed his quota by criticising the Colonial Office's policies from there, whilst changing political parties almost at will.<sup>90</sup> He was replaced with Sir John Macpherson in April 1948, a time when opposition to the Richards Constitution was at its peak. To cover up the failure, in August 1948, Macpherson announced the Richards Constitution was so successful, there was no need to wait three years to review it or to let it run for the expected time of nine years<sup>91</sup>.

The Macpherson Constitution of 1951 introduced the elective practice countrywide through electoral colleges.<sup>92</sup> Thus, it provided for larger representation in the three

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<sup>88</sup> Sklar, R. L. (1963). *Nigerian Political Parties: Power in an Emergent African Nation*. New York: Nok Publishers; Akhalbey, F. (2019). The unforgettable speech Nigeria's first president dared to give in London against imperialism in 1949. <https://face2faceafrica.com/article/the-unforgettable-speech-nigerias-first-president-dared-to-give-in-london-against-imperialism-in-1949-read>

<sup>89</sup> Kirk-Greene A.H.M. "Richards, Arthur Frederick, first Baron Milverton". [Oxford Dictionary of National Biography \(online ed.\). Oxford University Press.](#)

<sup>90</sup> Kirk-Greene A.H.M. "Richards, Arthur Frederick, first Baron Milverton". [Oxford Dictionary of National Biography \(online ed.\). Oxford University Press.](#)

Lord Milverton started in labour party, then moved to liberal party and again to conservative party.

<sup>91</sup> The originally proposal is that the new constitution should remain in force for nine years and should be reviewed at the end of that period, though limited changes might be made at the end of the third and sixth years.

<sup>92</sup> Kurfi, A. (1983). *The Nigerian General Elections 1959 and 1979 and the Aftermath*. Lagos: Macmillan Nigerian Publishers Ltd.

regions and at the federal level.<sup>93</sup> Political parties were expected to play a much greater role, but independent candidates were still allowed. Indeed, the politicians and various parties and associations started making integral contributions to the Macpherson Constitution during the Constitutional Conference of 1949, which started with a series of conferences that took place at various levels from village, district, provincial, regional, culminating in a national or general conference comprising 53 members, held at Ibadan in 1950. This was another positive outcome from the NCNC delegations' complaints to the Colonial Secretary about lack of consultation.

Northern and Southern Cameroons were allocated Seats in the Northern and Eastern Houses of Assembly respectively. Northern Cameroons was integrated and administered by the Northern Region due to the lack development and educated indigenes there. Southern Cameroons was administered as part of the Eastern Region largely by Cameroonians'. It retained a distinct identity from Nigeria, despite the large numbers of Nigerians who flocked to the place for business and other purposes.

The elective principle was not by universal adult suffrage throughout the country until the 1959 elections, when it was still only introduced for the federal and regional elections in the East and West; the North was restricted to male adult suffrage.<sup>94</sup> Elections to Houses of Assembly were in three stages in the Eastern and Western Regions, namely primary, intermediate and final. In the Northern Region; there was open voting in the towns or villages, with further elections in the district, emirate and provinces.<sup>95</sup> In theory, the first stage was direct in all three Regions and open to all taxpayers not otherwise excluded such as ex-convicts, females in the North, those lacking capacity or residence qualifications.

This time around Zik was almost caught out by the candidacy residence qualification. Prior to the 1951 Election, he was shuttling between the East and Lagos to ensure that the NCNC got a majority in the Eastern Region House of Assembly. It would seem certain

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<sup>93</sup> Lynch, H.R. (2012). Nationalist and Legislator, 1951–1953. In *K.O. Mbadiwe: A Nigerian Political Biography, 1915–1999*. Palgrave Macmillan: New York. [https://doi.org/10.1057/9781137002624\\_6](https://doi.org/10.1057/9781137002624_6)

<sup>94</sup> Nwankwor, C. (2019). Nigeria: Women's suffrage, change, and continuities in political participation. *The Palgrave handbook of women's political rights*, 257-273.

<sup>95</sup> Nnoli, O. (2003). Ethnic violence in Nigeria: A historical perspective. *Communal Conflict and Population Displacement in Nigeria*, 13-45.

Elements were determined to prevent Zik from getting a seat in the Western House of Assembly, thus his candidacy in Lagos was challenged based on lack of continuous residency. Zik had spent 10 weeks away in the East in the year preceding the election, whilst his family remained in Lagos. It was ruled that under the Macpherson Constitution 'Ordinarily Resident' means: leaving home with the liberty power and means to return.<sup>96</sup> It was argued and won by Zik's Counsel that since Zik returned to Lagos often and his family were still there, his residency was continuous. The case was dismissed. Zik was still able to run.

In the North, only males could vote, as mentioned earlier. Furthermore, sadly, in the North, it was the practice of the Native Authorities to bring in people at the higher levels who had not participated in the lower levels or might have even been earlier defeated. Radicals like Aminu Kano of NEPU found it impossible to win a seat under the Electoral College System.<sup>97</sup> The final level was for elected members of the regional Houses of Assembly to vote amongst themselves for those to go the (Central) House of Representatives in Lagos. Party participation and membership began to take prominence. Parties with an elected majority in the regional House of Assembly could not only control or lead the House, but also decided who went to the central House of Representatives or became Ministers.

Lagos and the Western Region had fewer levels of indirect voting, but the indirect voting issue played out in the Western Region early in 1952. Lagos had five seats in the Western Region House of Assembly. Voting in the Lagos constituency was by direct elections. Of the five elected candidates, two were eligible to go the House of Representatives, but were to be elected by the House of Assembly members.<sup>98</sup> All the Lagos seats were won by NCNC members, namely: Dr Nnamdi Azikiwe, Adeleke Adedoyin, and Abubakar Ibiyinka Olorunnimbe. As leader of the Party Zik was a priority to go to the House of Representatives, Adedoyin also had a priority nomination. Until the famous alleged 'carpet-crossing' incident,<sup>99</sup> little did Zik know that the NCNC no longer had a majority in

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<sup>96</sup> R.E. Bankole Williams, Revising Officer

<sup>97</sup> Sklar, Richard L. (1983). *Nigerian Political Parties: power in an emergent African Nation* Internet Archive. New York: NOK Publishers International

<sup>98</sup> Sklar, R. L. (2015). *Nigerian political parties: Power in an emergent African nation* (Vol. 2288). Princeton University Press.

<sup>99</sup> Ojo, E. O. (2011). The politics of the formation of alliance governments in multi-ethnic states: a case study of the Nigerian first alliance government, 1954-57. *Canadian Journal of History*, 46(2), 333-366.



the Western House of Assembly; and that the rival Action Group led by Awolowo was firmly in control. Awolowo was adamant that Zik would not be at the Centre representing the Western Region.

The Colonial Office were not unaware of the intense rivalry between Zik and Awolowo or the NCNC and AG. Perhaps they anticipated such disputes when they introduced a safeguard in the Western Region Election. Mr. Harold Cooper, the Government Public Relations Officer, took an advert on the front page of the Daily Times Newspaper (the de facto government newspaper), on Friday September 21, 1951. He wrote a Letter to the political parties contesting to submit a list of their members contesting the Western Region Election. The Action Group responded and published their own lists in the Daily Service (originally the official organ of the by then moribund NYM) and the Nigerian Tribune (owned by Awolowo and official mouthpiece of the Action Group) on or before September 24, 1951. Zik or rather the NCNC neither responded to Mr. Cooper or published their own list of contesting NCNC members in any newspaper. Hence, even if NCNC were morally right, it had no legal leg to stand on with regards to allegations that carpet-crossing prevented NCNC from getting a majority in the Western House of Assembly in the 1951 Election.

The NCNC's 'Plan B' for Olorunnimbe to step down also failed, as he refused for some reason. Entreaties and bargaining with Adedoyin also proved futile. This left Zik high and dry, as he was not particularly interested in the Western House of Assembly or operating the under the Macpherson Constitution for the sake of it. Zik's plan was to get to the Centre and bring down the Macpherson Constitution. He had expected to control the Eastern and Western Houses, then with help from his northern allies like Aminu Kano, he could paralyze in all three Houses of Assembly and the Centre, to get the Constitution replaced. As things stood, Zik was left with no choice, but to move to the East and get a seat in the Eastern House of Assembly where NCNC held sway. It was hoped that as leader of the NCNC, somebody would step down, thereby forcing a by-election for which he would stand and easily win. From there he would find his way to the House of Representatives. Thus, Zik started spending more time in the East, which caused further problems because, obviously there was no vacuum there. His able deputy Eyo Ita was leading the NCNC in the Eastern House of Assembly. This began to cause clashes.

In all, it may be said, that the Macpherson constitution still did not bring democracy to Nigeria. It did change the face of governance and elections and further whet the appetite of the Southern nationalists for freedom and self-rule. Rivalry between the NCNC and Action Group was heightened in the quest to show the world who was leading the charge to Independence. Anthony Enahoro took the bull by the horns and presented his famous “self-rule by 1956” motion on March 31, 1953, which was immediately rejected by the northern members of the House of Representatives.<sup>100</sup> The North opposed the motion for self-rule “due to the backwardness of the North in western acculturation and education; the need to “catch up” with other regions and the need to build their development “on sound and lasting foundations” so that it would be lasting.”<sup>101</sup> This caused such a commotion and it widened the existing gulf between southern politicians and northern establishment-elected politicians. Resignations from Action Group Cabinet Ministers and walkouts from the House by southern politicians followed.<sup>102</sup> Proceedings in the House of Representatives were never the same again. The northern politicians were also pelted on their way home on the train as they passed through Yorubaland.<sup>103</sup> They were incensed and felt insulted. To add salt to injury, shortly after, S.L. Akintola and the Action Group attempted to tour the North to persuade the populace to see the need for an early independence. This led to riots in Kano, which was their first stop.<sup>104</sup> The conflict created tension in other parts of the North. Reinforcement Troops had to be sent from Kaduna. The North came up with demands, which if not met, could mean effectively seceding from Nigeria.<sup>105</sup> The reverberations were felt in the Colonial Office and British Parliament.

Three days before the Kano riots, an announcement was made in the House of Commons about a decision to revise the Macpherson Constitution.

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<sup>100</sup> Lynn, M. (2006). The Nigerian self-government crisis of 1953 and the colonial office. *The Journal of Imperial and Commonwealth History*, 34(2), 245-261.

<sup>101</sup> Odunlami, B. A., and Oyeranmi, O. S. (2020). Ethnic-Politics, Class Identity and the Crisis of Nation-Building in Nigeria, 1914-1970. *KIU Journal of Humanities*, 5(2), p. 60.

<sup>102</sup> Lynn, M. (2006). The Nigerian self-government crisis of 1953 and the colonial office. *The Journal of Imperial and Commonwealth History*, 34(2), 245-261.

<sup>103</sup> Okpako, I. F., & Famous, I. (2022). Hegemonic Struggle and Violent Extremism in Nigerian Politics: Analysis of Selected Cases. *Journal of Humanities, Social and Management Sciences, Edwin Clark University, Kiagbodo, Delta State, Nigeria*.

<sup>104</sup> Lynn, M. (2006). The Nigerian self-government crisis of 1953 and the colonial office. *The Journal of Imperial and Commonwealth History*, 34(2), 245-261.

<sup>105</sup> Tamuno, T. N. (1970). Separatist Agitations in Nigeria Since 1914. *The Journal of Modern African Studies*, 8(4):563-584.

**Box I: Excerpt From a Telegram from Secretary of State to the Colonies –  
Mr. Lyttleton to Sir John Macpherson After the Kano Riots of May 1953**

*“I made following statement in the House of Commons today. Begins.*

*Recent events have shown that it is not possible for the three Regions of Nigeria to work together effectively in a federation so closely knit as that provided by the present Constitution. Her Majesty's Government in the United Kingdom, while regretting this, consider that the Constitution will have to be redrawn to provide for greater Regional autonomy and for the removal of powers of intervention by the Centre in matters which can, without detriment to other Regions, be placed entirely within Regional competence. It is at the same time necessary to ensure that the common economic and defence requirements of all Regions are secured. In order to ensure these vital requirements of all Regions and at the same time to preserve the common interests of all the peoples of Nigeria there will of course be a continuing need for a central organisation. The form which that central organisation should take, and the powers which must be reserved to it, will require careful study. In the work of redrawing the Constitution Her Majesty's Government in the United Kingdom would wish to co-operate as closely as possible with the leaders of the people in all three Regions. The first requirement is to decide how this work can best be carried out. To this end Her Majesty's Government will invite representatives from each Region to visit London for discussions with the Secretary of State. It is Her Majesty's Government's intention to carry through the projected reform of the Constitution in the shortest time possible, but in a territory of such a size, with so large a population, and with so many different groupings and many shades of public opinion, the work will inevitably take time. While that work is carried out Nigeria will continue to be governed under its existing Constitutional Instruments, and it will be necessary for the Central Government to be so composed that it can carry out its task in the meanwhile. It is the clear duty of all the Regions to assist the Governor by ensuring that the persons composing the central Government are able and determined to work together during this interim period. It is equally the clear duty of Her Majesty's Government to ensure that in all circumstances government in Nigeria is effectively carried on in the interests of all the peoples of the country. Ends.”<sup>106</sup>*

<sup>106</sup> CO 554/261, no 122

This still did not calm things down after the Enahoro Independence Motion. The next day, the North came out with its 8-Point Plan, that called for a far more federal Constitution.<sup>107</sup> The Action Group and NCNC were refusing to attend a Constitutional Conference unless more regional autonomy, self-rule and ministerial responsibility were on the table for discussion. The South was ready to steer its own affairs and have more democratic elections.

Zik had resigned and moved to the East to perfect his plan to get rid of the Macpherson Constitution.<sup>108</sup> The new Constitution did not give enough responsibility to Nigerians for his liking. He had seen a legal weakness and knew this could be done.

As a fall out of various crises, an impasse occurred in the Eastern House of Assembly. This also resulted in Southern Cameroonians beginning to assert their desires to be free from the Nigeria and indeed the NCNC. They could no longer function under the umbrella of their political associations, so they formed political parties. Those who wanted complete autonomy formed the Kamerun National Congress (KNC) were led by Emmanuel Endeley. Those who wanted a separate Region within Nigeria and cooperation with the NCNC formed the Kamerun People's Party (KPP) were led by Nerius Mbile.<sup>109</sup> These were purely Cameroonian parties so it was an indication that Southern Cameroons would eventually seek to stand alone.

NCNC managed to stall the Eastern Region's budget from being passed, the House needed to be dismissed. However, the Constitution had to be amended, because in order to dismiss one House, all three, plus the House of Representatives had to be dismissed.<sup>110</sup> An Eastern Region Election could not be called before October 1953. Amending the Constitution took 10 weeks. Meanwhile the Constitutional Conference in London was scheduled for July 1953.

<sup>107</sup> Sagay, I. (2001). Nigeria: Federalism, the Constitution and Resource Control. *Text of Speech delivered at the Fourth Sensitization Programme Organized by the Ibori Vanguard at the Lagoon Restaurant, Lagos on 19th May.*

<sup>108</sup> <https://guardian.ng/features/awo-vs-zik-and-how-it-affects-southern-nigeria-today/>

<sup>109</sup> <https://dokumen.pub/southern-west-cameroon-revisited-volume-two-north-south-west-nexus-1858-1972-1nbsped-9789956791101-9789956791323.html>

<sup>110</sup> Lynch, H. R. (2012). Rupture and Reconciliation: Mbadiwe and Azikiwe, 1955–1960. In *KO Mbadiwe: A Nigerian Political Biography, 1915–1990* (pp. 151-183). New York: Palgrave Macmillan US.

The Lyttleton Constitution of 1954 came out of the 1953/4 Constitutional Conference and built on the Macpherson Constitution, by introducing a full federal system of government and elections in Nigeria.<sup>111</sup> This time direct elections were allowed at the federal level. Against this context, legislative elections were held in 1954 for 184 Seats. As per their demands at the 1954 Constitutional Conference, the North, was given just over half the seats, amounting to 92; Lagos had two and Southern Cameroons six; the remaining 84 seats were divided equally between the Eastern and Western Regions.<sup>112</sup> It should be noted that it was found necessary to create some multiple member constituencies in the Northern and Eastern Regions.<sup>113</sup>

The three largest parties were the Northern People's Congress (NPC) whose electoral base was only in the Northern Region; the National Council of Nigeria and the Cameroons (NCNC) – was similarly dominant in the Eastern Region, but it still retained a foothold in Lagos and the Western Region; whilst the Action Group (AG) which was predominant in the Western Region, still had a foothold in all three regions.<sup>114</sup> Lagos, the West, and the East, and Southern Cameroons had no electoral colleges. Through horse-trading, references to its population being 55% of the total in the last Census and threats to secede, the North had emerged from the 1953 Constitutional conference with the largest number of constituencies or seats *ab initio*. Moreover, Southern parties were barely allowed to campaign in the North; but the AG managed the occasional foray. Since the AG and NCNC were not ready to join forces, it was hardly surprising that the NPC won the highest number of seats (84). the NCNC won 63 seats; and the AG won 20 seats.<sup>115</sup> Other smaller parties won seats in the North to take the remaining 8 seats out the 92 seats, these included Idoma State Union 2 seats, Middle Belt People's Party 2 seats, the Igbirra Tribal Union 1 seat.<sup>116</sup> In the Eastern Region, the AG in alliance with the United National Independence Party (UNIP) won 7 Seats and the Independents won 2 seats.<sup>117</sup>

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<sup>111</sup> Inegbedion, N. A., & Omoregie, E. (2006). Federalism in Nigeria: a re-appraisal. *Journal of commonwealth Law and legal education*, 4(1), 69-83.

<sup>112</sup> Ogbogbo, C. B. N. Historicizing the Legal Framework for Elections in Nigeria. *Journal of the Historical Society of Nigeria*, vol. 18, 2009, pp. 42–60.

<sup>113</sup> Hansard, H.C, debated on Wednesday 3 November 1954, Nigeria (Elections) Volume 532:

<sup>114</sup> Achoba, F., & Maren, B. A. (2021). Postcolonial Party Politics and Some Aspects of Intergroup Relation in Nigeria up to 2019. *Nigerian Politics*, 289-304.

<sup>115</sup> Azikiwe, N. (1961). *Zik: A Selection from the Speeches of Nnamdi Azikiwe*. Cambridge University Press

<sup>116</sup> Sklar, L. R. (1963). *Nigerian Political Parties: Power in an Emergent African Nation*. New York: Nok Publishers

<sup>117</sup> Ibid

Both the 1951 and 1954 federal elections were conducted by regional EMBs.<sup>118</sup> NCNC won most federal seats in the Western Region as well as the Eastern region.<sup>119</sup> But while the Action Group still controlled, the Western Region Assembly, it now had no ministers, whilst NCNC was entitled to six ministers and the NPC got its full quota of three ministers. This is despite Action Group managing to penetrate the North. The NPC had the highest number of seats at the federal level, and even with the Independents in the North supporting the NPC, it had no clear majority.

As Nigeria approached independence, a Constitutional Conference was convened at London's Lancaster House in May and June 1957. Providing details on the conference and its impact on Nigeria's path to independence, Burns noted that it was attended by officials from all Nigerian political parties as well as representatives from the United Kingdom government.<sup>120</sup> According to him, the Constitutional Conference led to significant changes in the government structure. For instance, the offices of Chief Secretary and Financial Secretary were abolished, and the Attorney-General was no longer a member of the Council of Ministers, which became exclusively composed of Nigerians, except for the Governor-General who continued to serve as President. A Federal Prime Minister was appointed, replacing the former Financial Secretary, and this position was filled by Alhaji Abubakar Tafawa Balewa, with Chief Festus Okotie-Eboh as the Minister of Finance. The Prime Minister established an all-party government, including members from the Northern People's Congress, the National Council of Nigeria and the Cameroons, and the Action Group. Special commissions were created to provide advice on minority issues, electoral boundaries, and budgetary matters. On August 8, 1957, the Eastern and Western Regions achieved self-governing status, and the constitution of the Southern Cameroons was amended to align with the Regional Constitutions of 1954.

Another Constitutional Conference was convened in 1958, resulting in the decision that the Northern Region would achieve self-governance in 1959. It was also agreed that if the

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<sup>118</sup> Kurfi, A. (2013). *Sixty Years Long March Towards Democracy: Nigerian General Election 1951 -2011*. Ibadan: Safari Books Ltd. Page ix

<sup>119</sup> Lynch, H. R. (2012). Nationalist and Legislator, 1951–1953. In *K. O Mbadiwe: A Nigerian Political Biography, 1915–1990* (pp. 99-117). New York: Palgrave Macmillan US.

<sup>120</sup> Burns A. (1963). *History of Nigeria*. London: Allen and Unwin Ltd.

Nigerian legislature requested independence, it would be granted in 1960. In the same year, the Federal Government assumed control of Nigeria's military forces and established the Nigerian Navy. By 1959, the Central Bank of Nigeria was legally established, and a new Nigerian currency was introduced. The Northern Region attained self-governing status on March 15, 1959. In December of that year, federal elections were conducted for an expanded House of Representatives, and members of a newly formed Senate were appointed.<sup>121</sup>

Legislative elections were again held on December 12, 1959. Nigeria was a federation, which meant the electoral regulations considered the peculiarities and desires of the Regions. Elections were held under direct universal adult suffrage in the Eastern and Western Regions and adult male suffrage with electoral colleges in the Northern Region. Voters needed to be 21 or more years of age, a British subject or protected person and ordinarily resident in Nigeria. It was also agreed, that there would be secret balloting in direct elections for single member constituencies. These elections were of particular significance, as they paved the way for Nigeria's independence in 1960.

The 1959 general elections produced 312 House of Representatives members, with some serving as Federal Ministers in Alhaji Abubakar Tafawa Balewa's administration. The NPC again won the highest number of seats (134), the NCNC won 89 seats, and the AG won 73 seats.<sup>122</sup> The British transferred power to this leadership group on Independence Day, October 1, 1960. Two political parties, the NPC and NCNC, created a coalition government at the centre, with Balewa of the NPC becoming Prime Minister and Nnamdi Azikiwe of the NCNC being named ceremonial Governor-General and eventually designated president.<sup>123</sup> The 1959 elections witnessed electoral violence, although it was localised and limited.<sup>124</sup> There were reports of tampering with electoral documents, exercise of undue influence by the colonial regime, and the use of thugs by politicians to intimidate political opponents.<sup>125</sup>

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<sup>121</sup> Ibid

<sup>122</sup> African Elections Database. (n.d.). *National Election Results: Nigeria Detailed Election Results*. [https://africanelections.tripod.com/ng\\_detail.html](https://africanelections.tripod.com/ng_detail.html)

<sup>123</sup> Kurfi, (2013)

<sup>124</sup> Laseinde, C.L. (n.d.). *The Role of the Federal Government of Nigeria in Providing Security Before During and After the February 2015 Elections*. [https://csis-website-prod.s3.amazonaws.com/s3fs-public/legacy\\_files/files/attachments/140714\\_Laseinde\\_ppt.pdf](https://csis-website-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/attachments/140714_Laseinde_ppt.pdf)

<sup>125</sup> Ibid

Ultimately, elections in the long period of colonial rule were highly significant, as they gave Nigerians an opportunity to participate in the decision-making processes, and thus gain experience in government prior to independence.

### 2.2.2 1960-1966 Period

Nigeria became independent on October 1, 1960, under the 1960 Independence Constitution which replaced the 1946 Lyttleton Constitution. Dr Nnamdi Azikiwe became the President of the Nigerian Senate, later Governor-General in November 1960, succeeding Sir James Robertson, the country's last British Governor-General, and Sir Abubakar Tafawa Balewa became Prime Minister. In 1963, Nigeria became a Republic, under the 1963 Republican Constitution and the ceremonial role of Governor-General was abolished and replaced with an elected President. Dr. Nnamdi Azikiwe became the President of the Republic with Sir Abubakar Tafawa Balewa as Prime Minister.

The first General Election in the First Republic held in 1964 for seats in the Federal House of Representatives. The 1964 General Election resulted in the victory of the Nigerian National Alliance (NNA), which won 63.5% of seats.<sup>126</sup> However, the election was conducted in the context of intra-ethnic power struggles and ethno-regional conflicts with widespread allegations of institutional and vote rigging.<sup>127</sup> This resulted in a boycott by the opposing United Progressive Grand Alliance (UPGA) in some constituencies in the Eastern, Western, Mid-Western Regions. Elections were not held in those constituencies until 1965.

In 1965, there was an election for the Western Regional Assembly.<sup>128</sup> By this time S.L. Akintola the Premier had formed a new party, adopting the name of Herbert Macaulay's defunct Party - Nigerian National Democratic Party (NNDP) and contested the elections under the platform of the new party, the Nigerian National Democratic Party (NNDP), which was an alliance of fractions of the AG and the NCNC who had led their parties.<sup>129</sup>

<sup>126</sup> African Elections Database. (n.d.). *National Election Results: Nigeria Detailed Election Results*. [https://africanelections.tripod.com/ng.html#1964\\_House\\_of\\_Representatives\\_Election](https://africanelections.tripod.com/ng.html#1964_House_of_Representatives_Election)

<sup>127</sup> Anglin, D. (1965). Brinkmanship in Nigeria: The Federal Elections of 1964-65, *International Journal* (Vol 20, No 2), pp173-188, <https://www.jstor.org/stable/40199517>

<sup>128</sup> The last Western Region election was in 1960, so another was due

<sup>129</sup> Nwosu, N. N. (1983). The Political Policies of Nigeria. *The Journal of Social, Political, and Economic Studies*, 8(1), 101.



However, amidst allegations of institutional and vote rigging, Akintola's NNNDP returned with most seats. A lot of Western Region People were angry at the way things had turned out. Having been made Premier and Deputy Chairman of Action Group by Awolowo, who went to the centre as the leader of the opposition at independence, Akintola started going against party lines and collaborating too closely with the NPC ruling party.<sup>130</sup> Thereafter, Chief Obafemi Awolowo became the subject of the Coker Commission of Inquiry, which indicted him and the Action Group Party for the way they handled the Region's Funds.<sup>131</sup> Many felt Akintola had a hand in it.<sup>132</sup> Worse still, the Western Region's hero, Chief Obafemi Awolowo, along with other popular Action Group politicians like Anthony Enahoro and Lateef Jakande, were jailed for treasonable felony by the Government. The faction within the AG with concerns over close collaboration between Akintola-led faction with the NPC and suspicion that Akintola had a hand in the travails of Awolowo -informed the passage of a vote of no confidence on Akintola by the Regional Assembly and a subsequent move to impeach the Premier.<sup>133</sup> Akintola refused to recognise the impeachment proceedings and sat tight.

The Western Region House of Assembly was in uproar, acts of violence took place. As a result, the Prime Minister, Tafawa Balewa declared a state of emergency for six months. Subsequently, Akintola insensitively went into an alliance with the ruling NPC party for the 1964 federal elections and his party was alleged to have helped the Alliance win by rigging the election. Added to this the Western Region Election was said to have been rigged in favour of Akintola's NNNDP, igniting another crisis in the Western Region. It became known as “*Operation Wetie*” because people were being doused with fuel and set ablaze daily. An estimated 2,000 people were killed during the crisis.<sup>134</sup>

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<sup>130</sup> Ogunnoiki, A. O. (2018). Political Parties, Ideology and the Nigerian State. *International Journal of Advanced Academic Research*, 4(12), 114-150; Nwosu, N. N. (1983). The Political Policies of Nigeria. *The Journal of Social, Political, and Economic Studies*, 8(1), 101.

<sup>131</sup> Ugorji, B. (2022). Nigeria-Biafra War and the Politics of Oblivion: Implications of Revealing the Hidden through Transformative Learning. [https://nsuworks.nova.edu/cgi/viewcontent.cgi?article=1190&context=shss\\_dcar\\_etd](https://nsuworks.nova.edu/cgi/viewcontent.cgi?article=1190&context=shss_dcar_etd)

<sup>132</sup> <https://www.premiumtimesng.com/opinion/150646-s-l-akintola-obafemi-awolowo-femi-fani-kayode.html?tztc=1>

<sup>133</sup> Adisa, J., & Agbaje, A. (1985). Impeachment and the Parliamentary Process in Nigeria's Second Republic (1979-1983). *Journal of the Indian Law Institute*, 27(4), 594-607.; Punch (2016). Akintola travelled in ambulances for protection during Wild-Wild-West crisis –Ayo Adebajo. [https://punchng.com/akintola-travelled-ambulances-protection-wild-wild-west-crisis-ayo-adebanjo/#google\\_vignette](https://punchng.com/akintola-travelled-ambulances-protection-wild-wild-west-crisis-ayo-adebanjo/#google_vignette)

<sup>134</sup> Nigeria: *The 1964-67 Elections*. (n.d.) <http://www.country-data.com/cgi-bin/query/r-9356.html>

Before the 1964 General Elections, the following major events took place. These were: regional elections between 1960 and 1961; the 1961 Referendum on the Cameroons conducted by the United Nations;<sup>135</sup> the national census of 1962, which was cancelled and held again in 1963; the July 13, 1963 Mid-West referendum which led to the creation of the Mid-Western Region; and the Mid-West regional election of February 1964<sup>136</sup>.

Between 1964 and 1966, major political events occurred that highlighted deepening divides within and across regions of Nigeria. The controversy surrounding the 1963 Census had a negative influence on the NPC and NCNC relationship. As a result, the three major political parties sought to establish coalitions, giving rise to the United Progressive Grand Alliance (UPGA) and the Nigerian National Alliance (NNA), both of which did not truly reflect an ideological consensus amongst the partnered parties. More so, the aftermath of the December 1964 elections was characterised by political tensions and unrest through 1965, especially in the Western region which paved the way for Nigeria's first military coup in January 1966,<sup>137</sup> and saw Major General Aguiyi-Ironsi emerge as the Head of State. Due to the perceived sectional bias of the coup d'état, Major General, Aguiyi-Ironsi was killed with his host – Col. Adekunle Fajuyi – while on an official visit to Ibadan. General Yakubu Gowon became the next Head of State. Retaliatory acts of violence by some northern officers escalated to what is now regarded in Nigeria's political history as a pogrom against the Igbo, a situation which resulted in a three-year civil war between 1967 and 1970. The war claimed the lives of at least two million Nigerians.

General Gowon was in office for nine years before he was toppled on July 29, 1975, partly due to the snail's pace of his transition to civilian rule programme. Although, just before the civil war started, he broke the country into 12 States, six of which contained minority ethnic groups.

General Murtala Muhammed succeeded Gowon and laid out a strict five-stage transition programme, which seemed to draw heavily on the 1964 Ademola-Mbanefo Peace Accord

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<sup>135</sup> Although some colonial officers were involved in handling the elections.

<sup>136</sup> African Elections Database. (n.d.). *National Election Results: Nigeria Detailed Election Results*. [https://africanelections.tripod.com/ng\\_detail.html](https://africanelections.tripod.com/ng_detail.html)

Diamond, L (1988). "Class, Ethnicity and Democracy in Nigeria: The Failure of the First Republic" MacMillan Press: Houndmills, Basingstoke, Hampshire and London

<sup>137</sup> Kurfi, A. (2013). *Sixty Years Long March Towards Democracy (Nigeria General Election 1951 -2011)*

Plan,<sup>138</sup> that was cut short by events at the end of the First Republic. On February 3, 1976, another set of seven states<sup>139</sup> were created bringing to the total 19 state structure. As Nigeria prepared for a return to democracy under the Murtala/Obasanjo regime in 1976, it was widely agreed that reforming local government was the foundation for a democratic transition. This informed the formation of the Dasuki Committee in 1976, with the goal of liberating Local Government from undue influence from other levels of government. The Committee's recommendation that statutory powers be devolved to local government served as the foundation for the 1976 Local Government Reform, which established the Local Government as Nigeria's third tier of government and allowed for the conduct of local government elections.<sup>140</sup> A Constitution Drafting Committee CDC was set up with recommendations to be reviewed by a Constituent Assembly.<sup>141</sup> After Murtala was assassinated on February 13, 1976, General Olusegun Obasanjo took over the reins of government and resumed the stalled transition programme to return the country to civil rule on strict timetable by October 1, 1979. Hence, the two regimes are often referred to as one. The Murtala-Obasanjo transition programme spanned the period between 1975 and 1979.

### 2.2.3 1979 - 1983 Period

Following thirteen long years of military rule, Nigeria made a transition to democracy through General Elections in 1979. The 1979 elections were also the first presidential elections ever in the country, as only legislative elections were held during colonial rule and in the First Republic. The elections led to the victory of Alhaji Shehu Shagari of the National Party of Nigeria (NPN). While the election was relatively peaceful, controversy arose in the post-election period over who the rightful winner of the election was.

To ensure that the President had a spread of votes and nation-wide popularity, the electoral legal framework stated that the winner, in addition to having the highest number of overall votes, must also score 25% of the votes in two-thirds of the states. Since Nigeria

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<sup>138</sup> Odinkalu, C. (2013). *The Management of Transition to Civil Rule by the Military in Nigeria (1966-1996)*. <https://books.openedition.org/ifra/634#ftn24>

<sup>139</sup> These were Bauchi, Benue, Borno, Imo, Niger, Ogun and Ondo States. They were created by General Murtala Muhammed  
<sup>140</sup> Constitution of the Federal Republic of Nigeria 1979, Section 7(1).

<sup>141</sup> Odinkalu, C. (2013). *The Management of Transition to Civil Rule by the Military in Nigeria (1966-1996)*. <https://books.openedition.org/ifra/634#ftn24>

had 19 states at the time, strictly speaking, two-thirds of the states would mean 12.67 states. It was on this basis that Shagari was declared the winner. However, the first runner-up, Chief Obafemi Awolowo, of the Unity Party of Nigeria (UPN) argued that two-thirds of 19 states should be rounded up to 13 states. Since Alhaji Shagari did not have 25% of the votes in up to 13 states, this meant that a runoff election should be conducted between the two highest-scoring candidates.

Ultimately, Awolowo's argument failed in court, and the Supreme Court upheld Shagari's victory. However, the Supreme Court ruled this case should not be used as a precedent. Nevertheless, this imbroglio caused a post-election crisis that nearly disrupted what should have been a smooth transition of power.<sup>142</sup> This contesting of election results in the courts has become common feature in succeeding years, creating a trend where election results are almost always disputed, and the courts end up determining the rightful winners of elections.

After Shehu Shagari's first term in office, another general election was conducted in 1983. This election was less successful than the 1979 election, as it witnessed serious irregularities and electoral fraud. Even the 65 million registered voters announced by FEDECO were widely viewed as inflated.<sup>143</sup> Indeed, some argued that the irregularities were sufficient to question the validity of the election results as a whole.<sup>144</sup>

The credibility of the election was negatively affected and although Shehu Shagari was again declared winner and was inaugurated on October 1, 1983, Nigeria's Second Republic was truncated within three months, as the military seized power following a coup d'etat on December 31, 1983. This coup ushered Major General Muhammadu Buhari into power. Buhari immediately set up a commission of enquiry under Justice Bolarinwa Babalakin. However, in under two years later, the Buhari regime was toppled by General Ibrahim Babangida through yet another coup on August 27, 1985.

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<sup>142</sup> Joseph, R. (1981). Democratization under Military Tutelage: Crisis and Consensus in the Nigerian 1979 Elections, *Comparative Politics* (Vol 14, No 1), pp. 75-100, <https://www.jstor.org/stable/421862>

<sup>143</sup> May, C.D. (1983, August 11). Nigerian President Elected to a Second Term. *The New York Times*. <https://www.nytimes.com/1983/08/11/world/nigerian-president-elected-to-a-second-term.html>

<sup>144</sup> Wright, S. (1984). Nigeria: The 1983 Elections, *The Round Table*, 73:289. <https://doi.org/10.1080/00358538408453620>

### 2.2.4 1985 - 1993 Period

The Babalakin Commission Report was thus handed over to General Babangida. The Commission's findings had a far-reaching effect on subsequent EMBs and elections, particularly those of the Babangida-Abacha era, and it is still a reference point today.

By 1985, the Babangida regime set on a course to return Nigeria to democratic government. He set up a committee of eight Permanent Secretaries to chart a new political course for the country. Not satisfied with their output, he turned to intellectuals and academics and formed the Nigerian Political Bureau of 1986 in search of “a new political order”.<sup>145</sup> He largely stuck to their recommendations for the transition to civilian rule. In furtherance of the quest for a more inclusive political equation, Babangida created two more states in August 1987<sup>146</sup>, followed by nine new states making 30 in all, in addition to reorganizing the Local Governments into a total of 597.<sup>147</sup> After a protracted period of anticipation, the Third Republic began in 1992<sup>148</sup> with staggered elections starting with polls for federal legislators' seats in the National Assembly, with Iyorchia Ayu and Agunwa Anaekwe emerging as Senate President and Speaker, respectively. The presidential election was held in 1993 with only two parties which were created by the Babangida regime allowed to contest the elections. These were the Social Democratic Party (SDP) and the National Republican Convention (NRC). The June 12, 1993, elections were deemed by observers to be peaceful, free, and fair, leading to a clear victory for Chief Moshood Abiola of the SDP.<sup>149</sup>

Unfortunately, the election failed to achieve its purpose because it was annulled by the government before the results could be officially announced by the Electoral Commission. At the time, the military government's position was that the election was annulled due to irregularities such as vote buying, and also to protect the judiciary.<sup>150</sup>

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<sup>145</sup> Falode, A. J. (2019). The Military and Nation-building in Nigeria: the General Ibrahim Babangida Regime, 1985-1993. *International Letters of Social and Humanistic Sciences* (85), 37-48.

<sup>146</sup> States (Creation and Transitional Provisions) Decree no. 24 of 23 September 1987

<sup>147</sup> States (Creation and Transitional Provisions) (no. 2) Decree no. 41 of 27 August 1991

<sup>148</sup> This was preceded by the 1990 local council election on party basis, and 1991 states creation, and governorship and state assembly elections

<sup>149</sup> Campbell, I. (1994). Nigeria's Failed Transition: The 1993 presidential election. *Journal of Contemporary African Studies*, 12:2. <https://doi.org/10.1080/02589009408729556>

<sup>150</sup> Nwokedi, E. (1994). Nigeria's democratic transition: Explaining the Annulled 1993 Presidential Election. *The Round Table*, 83(330). 189–204

However, General Babangida was later reported to have said that the election was annulled to prevent a violent coup.<sup>151</sup>

Indeed, several hypotheses have been put forward to explain the reason for the annulment of the election. These include Babangida's lack of commitment to the rebirth of democracy in Nigeria or the military continuity thesis determined by the military or a powerful clique within it to influence, for whatever reasons, the choice of a successor regime".<sup>152</sup> Whatever the true reasons might be, the annulment stopped Nigeria from returning to democratic rule.

In the wake of the annulment, there were protests and strikes across states comprising the former Western Region, as well as restrictions on the press by the government.<sup>153</sup> General Babangida stepped aside in the face of mounting international pressure, and an Interim National Government (ING) led by Chief Ernest Shonekan was inaugurated. There were plans to conduct a fresh transition election, but three months after Shonekan assumed office, he was said to have resigned. However, another military coup brought the Third Republic to an abrupt end. General Sani Abacha became Head of State on November 17, 1993. On assumption of office, he came up with a multi-stage transition programme in 1996, which included the creation of 6 more States on October 1, 1996.<sup>154</sup> There was great support for the widely acclaimed winner of the 1993 Presidential Election, Chief M.K.O. Abiola. Abacha's tenure was marked by protests, strikes and a reign of 'institutionalised terrorism'.<sup>155</sup> It was a regime characterised by struggle with the international community, civil society organisations (CSOs) and pro-democracy groups that wanted a rapid return to civilian and democratic rule.<sup>156</sup> Despite these, Abacha still managed to inaugurate an EMB, conduct some elections and execute some other transition programmes.<sup>157</sup> There was a strong belief Abacha wished to transmute to a civilian president. However, before

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<sup>151</sup> The Guardian. (2021, 6 August). *June 12 presidential election was annulled to prevent coup – Babangida*. <https://guardian.ng/news/june-12-presidential-election-was-annulled-to-prevent-coup-babangida/>

<sup>152</sup> Nwokedi, E. (1994). *Nigeria's Democratic Transition: Explaining the Annulled 1993 Presidential Election*, *op. cit.*

<sup>153</sup> This is well documented in the literature and reported in the media. See for example: Ndujihe, C. (2019). *The Fortuous June 12 Road: Timelines of the Struggle*. Vanguard, June 13.

<https://www.vanguardngr.com/2019/06/the-fortuous-june-12-road-timelines-of-the-struggle/>

<sup>154</sup> Transition to Civil Rule (Political Programme) Decree no. 1 of 1996.

<sup>155</sup> Idachaba, E. (2013). *Chronology of Major Political Events in the Abacha Era (1993-1998)*. <https://books.openedition.org/ifra/653>

<sup>156</sup> Amuwo, K. (2013). *Introduction: Transition as Democratic Regression*. <https://books.openedition.org/ifra/632>

<sup>157</sup> Ibid

he could finish his transition plan, General Abacha unexpectedly died and following his death in 1998, General Abdulsalami Abubakar took over as Head of State.

### 2.2.5 1999- to date

The Fourth Republic began in 1999 through the transition elections that occurred that year under General Abubakar's regime. The People's Democratic Party (PDP) dominated the 1999 elections from the national to the state and local levels. The presidential elections saw the victory of General Olusegun Obasanjo of the PDP. International observers noted that while the campaign was peaceful, there were serious electoral irregularities and fraud, including “a wide disparity between the numbers of voters observed at the polling stations and the final results”.<sup>158</sup>

In 2003, President Obasanjo of the PDP was re-elected amid allegations of serious electoral fraud and violence. According to Professor Iwu, for the 2003 General Election, there were huge manifestation of disorder and indiscipline within political parties as the Commission contended with a most chaotic situation in which political parties substituted, resubstituted and unsubstituted their candidates for the elections up till the night preceding the elections.<sup>159</sup> The confusion eventually resulted in the aberrant situation in which some candidates of a political party who were the last substitution in the list of the party for the election and those who eventually won the elections were rejected at the 2003 election tribunals as not being the correct candidates.

The European Union Election Observation Mission (EU EOM) recorded up to 105 election-related deaths.<sup>160</sup> Even the Electoral Act 2002, on which the elections were conducted, was found to be inconsistent with the provisions of the 1999 Constitution and

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<sup>158</sup> The Carter Center/National Democratic Institute for International Affairs. (1999). *Observing the 1998-99 Nigeria Elections: Final Report*. <https://www.cartercenter.org/documents/1152.pdf>

<sup>159</sup> Iwu, M.M. (2008). The April 2007 Elections in Nigeria: What Went Right? Distinguished Lecture Under the Professional Programme in Election Administration, Department of Political Science, University of Ibadan. KII with Professor Iwu, September 6, 2021

<sup>160</sup> EU EOM. (n.d.). *Nigeria: National Assembly Elections, 12 April 2003; Presidential and Gubernatorial Elections, 19 April 2003; State Houses of Assembly Elections, 3 May 2003*. [https://www.europarl.europa.eu/cmsdata/212733/Nigeria-general-elections\\_12-&19-April-03-May-20016\\_EU-EOM-report.pdf](https://www.europarl.europa.eu/cmsdata/212733/Nigeria-general-elections_12-&19-April-03-May-20016_EU-EOM-report.pdf)

a nullity.<sup>161</sup> Ultimately, it was observed that the 2003 elections failed to meet the standards of Nigerian legislation or international agreements to which Nigeria was a signatory.<sup>162</sup>

The 2007 General Election was adjudged by observers as the worst elections because of the level of electoral malpractices in Nigeria's history.<sup>163</sup> The irregularities in the election were even acknowledged by President Umaru Musa Yar'Adua of the PDP, who emerged the winner.<sup>164</sup> Indeed, the International Republican Institute (IRI) described what happened in 2007 as not an election, but an “election-like event”.<sup>165</sup> It is also worth mentioning that the 2007 General Election was conducted in a very tumultuous political environment with deep schism between the President Obasanjo and Vice President Atiku impacting the conduct of the Election.

The massive irregularities in the 2007 General Election generated pressure for electoral reform. This led President Yar'Adua to establish the Electoral Reform Committee (ERC) led by Justice Mohammed Lawal Uwais. The Uwais report recommended many initiatives aimed at, among others, increasing the financial and operational independence of INEC. Upon submission, the Uwais-led ERC Report was submitted to a Committee headed by Shettima Mustapha, Minister of Police affairs, Dr. Hakeem Baba Ahmed, a Permanent Secretary in the SGF's Office was appointed the Secretary and wrote the White Paper. More than 98% of the recommendations in the report were accepted. For the remaining 2% more stringent recommendations were made. While the government accepted to implement the recommendations of the Committee (aside from that requiring the president to cede the power to appoint committee members), implementation of the recommendations encountered a challenge due to “the dawdles of partisan politics.”<sup>166</sup>

Professor Attahiru M. Jega, who had been a member of the Uwais-led ERC, was sworn in as the new INEC Chairman on June 30, 2010, shortly after, the Electoral Act 2010 was

<sup>161</sup> See *National Assembly V President* (2003) 9 NWLR (PT 824) 104

<sup>162</sup> EU EOM. *Nigeria: National Assembly Elections, 12 April 2003; Presidential and Gubernatorial Elections, 19 April 2003; State Houses of Assembly Elections, 3 May 2003, op. cit.*

<sup>163</sup> Human Rights Watch. (2007). *Criminal Politics: Violence, 'Godfathers' and Corruption in Nigeria*. HRW: New York

<sup>164</sup> National Democratic Institute. (2008). *Final NDI Report on Nigeria's 2007 Elections*. [https://www.ndi.org/sites/default/files/2313\\_ng\\_report\\_election07\\_043008.pdf](https://www.ndi.org/sites/default/files/2313_ng_report_election07_043008.pdf)

<sup>165</sup> IRI. (2014). *Nigeria National Elections: April 2011*.

[https://www.iri.org/sites/default/files/flip\\_docs/Nigeria%202011%20EO%20-%20Final/files/assets/common/downloads/Nigeria%202011%20EO%20-%20Final.pdf](https://www.iri.org/sites/default/files/flip_docs/Nigeria%202011%20EO%20-%20Final/files/assets/common/downloads/Nigeria%202011%20EO%20-%20Final.pdf)

<sup>166</sup> Okoro, C. & Mabadeje, E. (n.d). *Revisiting Justice Uwais Electoral Reform Report*. CLEEN Foundation. <https://cleen.org/2019/05/24/revisiting-justice-uwaiss-electoral-reform-report/>



passed on August 24, 2010; and it contained many of the recommendations of the 2008 ERC Report. Against the context of these reforms, the 2011 General Elections were held, which led to a victory for President Goodluck Jonathan of the PDP, who became the incumbent following Yar'Adua's death. The Election was generally regarded as being markedly more credible than previous elections since the start of the Fourth Republic, especially the 2003 and 2007 General Elections. However, following the announcement of the election results, there was massive post-election violence with over 1,000 persons killed in the post-election period alone.<sup>167</sup> Although observers note that this violence was “unrelated to the assessment of INEC's performance, the validity of the election results and the average perceptions held by Nigerians about the credibility of the electoral process”.<sup>168</sup>

The 2015 elections further improved on the 2011 elections, as it had “relatively little violence or voter fraud.”<sup>169</sup> The credibility of the election could be illustrated by the fact that it was the first election since the start of Nigeria's Fourth Republic where an incumbent President lost re-election, and it was also the first time a ruling party at the national level lost a presidential election to the opposition since independence in 1960. The credibility of the election was further evident in the fact that the defeated candidate, President Goodluck Jonathan, made a telephone call to his opponent, Muhammadu Buhari of the All Progressives Congress (APC), congratulating him on his victory. As the Commonwealth Observer Group concludes, the 2015 General Election was “credible, peaceful, transparent and reflected the will of the people”.<sup>170</sup>

Unfortunately, during the 2019 General Election, some of the gains from the previous years were lost. The Nigeria Civil Society Situation Room highlighted logistical issues, voter apathy, electoral irregularities, and localised incidents of voter intimidation and ballot box snatching and destruction as flaws that marred the conduct of the election.<sup>171</sup>

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<sup>167</sup> Araba, A.A. & Braimah, J.O. (2015). Comparative Study of 2011 and 2015 Presidential Elections in Nigeria. *Global Journal of Human-Social Science F: Political Science* (Vol 15, Issue 7). [https://globaljournals.org/GJHSS\\_Volume15/4-Comparative-Study-of-2011.pdf](https://globaljournals.org/GJHSS_Volume15/4-Comparative-Study-of-2011.pdf)

<sup>168</sup> Ibid

<sup>169</sup> Araba, A.A. & Braimah, J.O. Comparative Study of 2011 and 2015 Presidential Elections in Nigeria, *op. cit.*

<sup>170</sup> The Commonwealth. (2015, 28 March). *Nigeria Presidential and National Assembly Elections*. <https://thecommonwealth.org/sites/default/files/inline/Nigeria%2BCOG%2BReport%2BMarch%2B2015.pdf>

<sup>171</sup> Nigerian Civil Society Situation Room. (2019). *Report of Nigeria's 2019 General Elections*. <https://situationroomng.org/wp-content/uploads/2019/09/Report-on-Nigerias-2019-General-Elections.pdf>

Nevertheless, it is reported that “shortcomings experienced on the Election Day did not have significant impact on the overall results of the presidential election”.<sup>172</sup>

The 2023 General Election is the most recent of the string of regular elections conducted at four-year intervals in the country since 1999. The election, which held on February 25, 2023 (for Presidential and National Assembly positions) and March 18, 2023 (for Governorship and State House of Assembly positions), was contested by 18 political parties across the country. Of these parties, four, namely: the APC, PDP, LP and NNPP dominated the contest across the country. To check malpractices and improve public confidence, INEC consolidated on previous election innovations, with the introduction of the Bimodal Voter Accreditation System (BVAS) and the INEC Result Viewing (IREV) Portal. These measures were introduced to stem the tide of electoral malpractices such as multiple voting and result manipulation while simultaneously improving transparency and public confidence by allowing for the upload of result to the publicly accessible IREV portal.<sup>173</sup>

Paradoxically, the measures introduced to boost public confidence became the basis for widespread public disenchantment with INEC and the electoral process in general. On February 25, 2023, following the conclusion of voting, the presidential election results could not be uploaded to the IREV portal at the PUs. Another feature of the 2023 General Election was that the presidential election had a very ethnic character, with three candidates of the APC, PDP and LP coming from the Yoruba, Hausa and Igbo ethnic nationalities respectively. Historical ethnic tensions were palpable as the election drew near and the challenge with result upload intersected with these sentiments to further fuel discontent.

Political parties, especially the top contenders accused the EMB of foul play. Although the Chairman of the Commission released a statement explaining that the challenge stemmed from a technical glitch, many remained sceptical about the neutrality of the commission and the credibility of the process. The subsequent announcement of the APC as winner of the election was accompanied with litigations, with the LP and PDP among other political parties contesting the validity of the results in courts and calling the 'mode

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<sup>172</sup> Onapajo, H. (2020). The Tragedy of the Umpire: the Electoral Management Body and Nigeria's 2019 general elections. *The Round Table*, 109:4. <https://doi.org/10.1080/00358533.2020.1788754>

<sup>173</sup> The Electoral Hub (2023) Electoral Accountability Matters! An Analysis of Nigeria's 2023 General Election <https://electoralhub.org/publications/post-election-analysis/the-electoral-hub-2023-general-election-analysis/>

of transmission' of the results to question. The court upheld the results and reiterated INEC's argument that the IReV portal is a result viewing portal and not a result transmission portal. This brought the controversies surrounding the 2023 general election to an end, paving way for preparation for future elections.

### **2.3 Electoral Legal Frameworks**

The organization and administration of electoral processes is complex, specialized, and always involves a substantial mass of detail which are usually specified in written legal frameworks - laws and regulations rather than determined by unwritten traditions or administrative policymaking.<sup>174</sup>

The electoral legal framework is thus, highly important, as the legal certainty provided with the “detailed exposition of electoral processes embedded in law, tend to promote confidence in the consistency, fairness and even-handedness of electoral administration, as well as provide clear opportunities for legal redress”.<sup>175</sup> These written laws and regulations also provide the benefits of certainty, visibility and transparency, and are easier to subject to judicial review, and accessible to interested parties (e.g. candidates, voters and citizens at large).

In other words, legal frameworks for elections determines what the electoral commission can and cannot do. An enabling legal framework will allow the electoral commission to conduct successful elections. On the other hand, a restrictive legal framework will prevent the electoral commission from implementing measures that will lead to successful elections. The electoral legal framework of Nigeria consists of the Constitution, the Electoral Act, and the regulations and guidelines developed by the electoral commission. This string of legal instruments serves to ensure that the electoral process is properly codified and managed.

However, these laws have not been uniformly applicable to all elections conducted in the 100 years history of election in Nigeria. For example, the electoral laws for the conduct of

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<sup>174</sup> Catt, H. et al (2014). Electoral Management Design (revised edition). Stockholm: International IDEA

<sup>175</sup> Ibid, p.44

the elections under parliamentary system of government of 1951, 1954, 1959 and 1964 “had no provision for registration of political parties or prohibition of independent candidature, or establishment of an all-powerful election commission which are the hallmarks of election laws from 1979 to date”.<sup>176</sup>

### 2.3.1 Constitutions

Nigeria has had several constitutions since its amalgamation in 1914. In the colonial period, there was the Lord Lugard (Amalgamation) Constitution of 1914;<sup>177</sup> the Clifford Constitution of 1922, the Richards Constitution of 1946, the Macpherson Constitution of 1951, and the Lyttleton Constitution of 1954. Following independence, we have had the 1960 Independence Constitution, the 1963 Republican Constitution, the 1979 Constitution, the 1989 and 1995 Constitutions (which never fully came into force, though some of their basic provisions were implemented), and the 1999 Constitution.

The 1999 Constitution is the current legal framework guiding elections in the country. It contains various provisions relating to elections, including election tribunals, elective offices, and electoral institutions such as political parties and INEC, the EMB. The 1999 Constitution has been amended four times. The first three amendments were made in 2010, based on recommendations in the Uwais-led Electoral Reform Committee Report. As discussed above, these amendments increased INEC's independence, thus contributing to the success of the 2011 and 2015 elections. The fourth amendment was passed in 2017, to among other matters, reduce the age limit for running for presidential and legislative elections.

The 1999 Constitution was again subjected to change, during the 9th National Assembly when it carried out a comprehensive process of constitutional reforms. Of particular interest was the Independent Candidacy Bill, which sought to remove the constitutional requirement of membership and sponsorship by a party before a candidate can contest elections, and the Special Seats Bill which sought to create additional special seats for women in the national and state legislatures. While the bill on independent candidacy was

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<sup>176</sup> Kurfi 2013:xix

<sup>177</sup> Popularly named the Nigerian Council

passed by the National Assembly and was awaiting presidential assent just before the end of President Buhari's tenure in May, 2023, it was never signed. The Special Seats Bill was rejected by the National and State Houses of Assembly. From this, it is clear that, although the constitutional provisions regulating the conduct of elections and by extension, the EMB are gradually undergoing reforms to conform with contemporary demands, there are still inclusion and equity related issues which are likely to continue shaping the direction of the country's democracy, its elections and the performance of the electoral umpire.

### **2.3.2 Electoral Acts**

While the Constitution establishes the Electoral Management Boards (EMBs), the way they operate and how they manage elections are largely laid out in the Electoral Act. Electoral Acts include rules and regulations that empower relevant agencies, especially the Independent National Electoral Commission (INEC), to conduct elections legally. They are established by decrees under the military but established through the legislative process under democracy.

The Electoral Act, operationalise the Constitutional provisions on EMBs, providing detailed explanations of constitutional provisions on elections. The Acts, for example, contains explicit prohibitions as was the case in the FEDECO Electoral Law (Electoral Decree 1977, Section 4(a-e)<sup>178</sup>) or tacit provisions restricting Commissioners from voting. Section 42(1) and 56 of the Electoral Act 2022 make it impossible for them to participate in elections as voters by requiring people to vote where they are registered. The Electoral Acts in the post-1999 period also contain specific provisions for regulating the conduct of Federal, State and Area Council elections in the FCT.<sup>179</sup> It empowers the EMB to carry out its statutory election management activities, including registration of voters, provision of regulations and guidelines, approving the use of card readers, and

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<sup>178</sup> This Section disqualifies all election officials such as the Chairman and members of the Commission, Chief Electoral Officers, Electoral Officers and Assistant Electoral Officers, the Returning Officers and Assistant Returning Officers, and the Presiding Officers from voting at an election.

<sup>179</sup> Area Councils are administrative units in the Federal Capital Territory of Nigeria that serve as local government areas. The FCT has six area councils: Abaji, Abuja Municipal, Bwari, Gwagwalada, Kuje, and Kwali. While State Independent Electoral Commissions are generally responsible for local government elections in the 36 states of Nigeria, Area Council Elections in the FCT are conducted by INEC.

other technological devices in elections and political party primaries, providing a timeline for the submission of a list of candidates, specifying criteria for substitution of candidates, limits on campaign expenses, and addressing the omission of names of candidates or logos of political parties.<sup>180</sup> The Act further lays out an elaborate list of electoral offences, treated largely as criminal offences with appropriate punitive measures.<sup>181</sup>

Since the start of the Fourth Republic, Nigeria has had several electoral acts, including the short-lived Electoral Act 2001, the Electoral Act 2002, the Electoral Act 2006, the Electoral Act 2010 and the Electoral Act 2022. Before the Fourth Republic came into being in 1999, there was the Electoral Act 1962, the Electoral Decree 1977, and the Electoral Act 1982.

The Electoral Act 2010 (as amended) which lasted 12 years<sup>182</sup> and was used for three general elections and many other off-cycle elections including state governorship elections, was repealed and replaced with the Electoral Act 2022 on February 25, 2022 and is the current electoral law in the country. It provides a comprehensive framework for the conduct of elections in Nigeria. The Electoral Act 2010 (as amended) was passed in 2010 on the recommendation of the Uwais report, and it repeals the earlier version of the Act passed in 2006. The table below offers shows the historical evolution of Electoral Acts in Nigeria from 1999 to date.

**Table 2.1 Evolution of Electoral Acts in Nigeria 1999 - 2022**

S/N	Period and Rationale for Reform	Reform Instrument	Content of Reform	Reform Outcome
1	Post 1999 elections to introduce an Electoral Act to govern electoral conduct.	The 2001 Electoral Bill	— The first legal framework governing the conduct of federal, state and local elections.	Electoral Act 2001 Passed

<sup>180</sup> Electoral Act, (2022) Explanatory Memorandum

<sup>181</sup> For more on Criminalisation of Electoral Offences, see Okechukwu Ibeanu (2022, April 28) "Prosecuting Electoral Offences as a Mechanism for Electoral Accountability." Keynote Address Presented at the Roundtable on Electoral Offences in Nigeria organized by The Electoral Hub on the 28th April, 2022. <https://electoralhub.iriadng.org/news-and-events/keynotes/>

<https://electoralhub.iriadng.org/news-and-events/communique/>

<sup>182</sup>The 2010 Electoral Act has had the longest duration of use in Nigeria.

2	Post 1999 elections through a litigation initiated by Abia State Attorney General questioning the bearing on local elections	The 2002 Electoral Bill	<ul style="list-style-type: none"> <li>— To repeal the 2001 Act.</li> <li>— Delete sections that referred to the conduct of local elections by INEC as this was constitutionally the mandate of SIECs.</li> </ul>	Electoral Act 2002 Passed
3	Post 1999 elections through a litigation initiated by INEC challenging the powers of the National Assembly to determine the order of elections	A Bill to amend the 2002 Electoral Act	<ul style="list-style-type: none"> <li>— To reduce the number of days required for publication of notice of elections.</li> <li>— Guarantee INEC's powers to determine the date and order of elections.</li> <li>— Reduce the number of days required for parties to submit list of nominated candidates.</li> </ul>	Electoral Act 2002 Amended
4	Post 2003 Elections to further improve the process	The 2005 Electoral Reform Bill	<ul style="list-style-type: none"> <li>— Grant INEC Powers to appoint the Secretary to the Commission.</li> <li>— Establishment of an INEC fund to contribute to the Commission's fiscal independence.</li> <li>— Provide higher ceilings on campaign expenses.</li> <li>— Provide stiffer penalties for electoral offences.</li> <li>— Provide for continuous voter registration.</li> <li>— Restrain serving government officials from voting as delegates in party primaries.</li> </ul>	The 2006 Electoral Act was passed with some provisions of the Bill not considered.

			<ul style="list-style-type: none"> <li>— Provide time limits to make changes to party nominees.</li> <li>— Changes to election petition processes.</li> </ul>	
5	Post 2007 elections Constitutional Amendment Bills 2009 and 2010	Electoral Act Bill 2009	<ul style="list-style-type: none"> <li>— Financial Independence of INEC through the national consolidated fund.</li> <li>— Non-partisanship of INEC members.</li> <li>— INEC not subject to external control in its administration and operations.</li> <li>— Powers of the National Assembly to make laws that enforce intra-party democracy and INEC to oversee party primaries.</li> <li>— Avoidance of tenure elongation as a result of rerun elections.</li> </ul>	The 1999 Constitution was amended twice before the 2011 General Election. Electoral Act 2010 passed
6	Post 2007 elections to further improve the process	The Electoral Act Amendment Bill 2010	<ul style="list-style-type: none"> <li>— Provisions to speed up appeal processes by providing time limits for the determination of appeals.</li> <li>— Empowerment of INEC to deregister dormant political parties.</li> <li>— Empowerment of INEC to monitor party primaries which are mandatory.</li> <li>— Allowance for outcome of party primaries to be appealed in courts.</li> <li>— Proposal to bar political appointees from voting as delegates in party primaries and conventions.</li> </ul>	Passed and amended once before the 2011 election.



7	Post 2007 elections to further improve the process	The Electoral Act Amendment Bill 2010	<ul style="list-style-type: none"> <li>— Provisions to speed up appeal processes by providing time limits for the determination of appeals.</li> <li>— Empowerment of INEC to deregister dormant political parties.</li> <li>— Empowerment of INEC to monitor party primaries which are mandatory.</li> <li>— Allowance for outcome of party primaries to be appealed in courts.</li> <li>— Proposal to bar political appointees from voting as delegates in party primaries and conventions.</li> </ul>	The Electoral Act 2010 passed and amended once before the 2011 election.
8	Post 2011 elections	A bill to amend the 2010 Electoral Act	<ul style="list-style-type: none"> <li>— Legalization of the card reader.</li> <li>— To provide for tenure of office of Secretary</li> <li>— Power to issue duplicate voter's card,</li> <li>— Power to determine voting procedure; and for related matters</li> </ul>	The 2010 Electoral Act (as amended 2015)
9	Post 2015 General Election	The Electoral Act Amendment Bill 2018	<ul style="list-style-type: none"> <li>— Suggested reordering of election sequence,</li> <li>— Proposed digital transmission and archiving of results through INEC server,</li> </ul>	Generated significant political debate; some provisions were not implemented due to lack of assent, impacting the 2019 elections.
10	Post 2015 General Election	The Not Too Young to Run Bill 2018	<ul style="list-style-type: none"> <li>— Sought to amend sections 65, 106, 131, 177 of the Nigerian Constitution to reduce age limits for House of Assembly and</li> </ul>	The Constitution was officially amended to reduce age

			<ul style="list-style-type: none"> <li>— House of Representatives from 30 to 25, Senate and Governorship from 35 to 30, and Presidency from 40 to 30 years old.</li> </ul>	limits for political offices and allowing for greater youth participation in politics.
11	Post 2019 General Elections	The Electoral Amendment Bill 2021	<ul style="list-style-type: none"> <li>— Makes provisions for the use of technology for voter accreditation.</li> <li>— Expressly prohibit political party members from accepting positions or appointments at INEC;</li> <li>— It provides a clear definition of over-voting and allows for the electronic transmission of results.</li> <li>— Making direct primaries mandatory for all political parties and allowing indirect primaries to be held for party candidate nominations.</li> </ul>	The 2022 Electoral Act was passed into law with changes effected to some of the provisions.

**Source: Adapted from Mukoro, Kalama and Arugu<sup>183</sup> and  
Updated by The Electoral Hub**

It is worth noting that the evolution of the Electoral Act in Nigeria is reflective of incremental efforts at improving the electoral process and ensuring optimal performance of the EMB. Through the years, the Act has contained provisions relating to INEC, voter registration, election procedure, political parties, electoral offences and penalties, and election petition proceedings. The Electoral Act 2022, however, brought in the following new key provisions:

<sup>183</sup> Mukoro, A., Kalama T. J., & Arugu, O. L. (2018). *Democracy and Leadership in Africa: Nigeria and South Africa in Focus*. International Institute for Policy Review and Development Strategies, Nigeria. Updated by The Electoral Hub

**Table 2.2: Key Provisions in the Electoral Act 2022**

<b>S/N</b>	<b>Section</b>	<b>Provision</b>
1	Section 3(3)	Release of INEC's funds at least 1 Year before an Election.
2	Section 8(5)	Political neutrality of INEC Staff <sup>184</sup>
3	Section 24	It adjusts timelines relating to events in the electoral process to allow for more effective administration.
4	Section 26	Election officials to swear an oath of loyalty and neutrality
5	Section 28	Notice of election 360 days to an election <sup>185</sup>
6	Section 29 (1)	Early conduct of Party Primaries & submission of sponsored candidates' names emerging therefrom, at least 180 days before an election
7	Section 29 (5)	Only aspirants who participated in an election can challenge false information given by Candidates
8	Section 34	Replacement of candidates deceased during the elections. Replacement done by a process either fresh election or party primary
9	Section 37	Contested election of candidate nomination (Where more than one Candidate is validly nominated, a poll must be held)
10	Section 47 (2)	The legalisation of electronic accreditation of voters
11	Section 50 (2)	Allowing INEC to determine the mode of voting and results transmission
12	Section 51 (2)	Redefined Over-voting focuses on the number of accredited rather than registered voters
13	Section 54(2)	Inclusion of Persons with Disability
14	Section 64 (9)	Criminalises false collation and announcement of results by collation or returning officers respectively
15	Section 65	Gives INEC Powers to review results deemed to be declared under duress

<sup>184</sup> Section 26 (1), (2) which expects ad-hoc election staff to swear an oath of loyalty and neutrality ensured that election officials were politically neutral

<sup>185</sup>Section 28(3) provides for 14days notice of election before the date for bye-election

16	Section 75 (1)	Registration of parties terminates 12 months before the general election <sup>186</sup>
17	Section 81 (2)	Notice of merger of parties 9 months before the general election
18	Section 84 (2)	Gives parties discretion to determine the mode of candidate selection at the primaries
19	Section 84(12)	Disqualifies political appointees from voting for or being voted as a candidate for in any party primary election
20	Section 94 (1)	Extension of the period of campaigns from - starting 150 days to before 24 hours to the election
21	Section 150(1)	Provides that the procedures for elections conducted by INEC to FCT Area Councils must be the same and apply with equal force as the procedure regulating Local Government Areas elections conducted by any State Commission. <sup>187</sup>

*Source: Compiled by The Electoral Hub<sup>188</sup>*

### 2.2.3 Regulations and Guidelines

The various electoral commissions in Nigeria's history have been empowered to make subsidiary legislation to guide the conduct of elections. As such, for example, for the 2019 General Election, acting on its powers, INEC issued regulations and guidelines for the conduct of elections, using the powers granted to it by the 1999 Constitution and the Electoral 2010 (as amended)<sup>189</sup> and for the 2023 General Election, the Electoral Act 2022.

The 2019 regulations contain provisions on eligibility to vote, voting locations, polling staff and qualifications, the appointment of polling agents, accreditation and voting procedure, smart card readers, persons with disabilities (PwDs), vote counting, collation

<sup>186</sup> This is particularly important in addressing the unwieldiness in number of parties on the ballot. It also help to address last minute registrations that contribute to logistics challenges for the EMB in terms ballot designs, procurement and delivery.

<sup>187</sup> State Independent Electoral Commission (SIEC)

<sup>188</sup> The Electoral Hub (2022). Electoral Landscape since the Assent of the Electoral Act 2022. [www.electoralthub.iriadng.org/publications/](http://www.electoralthub.iriadng.org/publications/). The Electoral Hub (2023) Electoral Accountability Matters! An Analysis of Nigeria's 2023 General Election <https://electoralthub.org/publications/post-election-analysis/the-electoral-hub-2023-general-election-analysis/>

<sup>189</sup> See INEC. (2019). *Regulations and Guidelines for the Conduct of Elections*. <https://inecnigeria.org/wp-content/uploads/2019/01/Regulations-and-Guidelines-2019.pdf>

and transmission, over-voting, and access to voting locations. These regulations apply to general elections, by-elections, re-run elections and supplementary elections.

Following the onset of the Covid-19 pandemic, INEC also issued a policy on conducting elections in the context of the pandemic.<sup>190</sup> The purpose of the policy was to enable officials and staff of the Commission understand and respond adequately to the pandemic, as well as to provide a guide for engagement with stakeholders during elections.<sup>191</sup>

Some key points from the policy are the redesigning of polling units to allow for social distancing, use of tags and twines to prevent overcrowding, adjustment of polling time to allow additional time to set up polling units in a Covid-19 compliant manner, compulsory wearing of face masks at polling units and collation centres, periodic disinfection of work areas, and provision of personal protective equipment (PPE) and other safety materials for polling staff. For as long as Covid-19 regulations remain in force, this policy constitutes part of the regulations guiding elections in Nigeria.

#### **2.2.4 International Instruments**

It is pertinent to also point out that some important international obligations, treaties or protocols have become domesticated in Nigerian laws and further embedded in Nigeria's electoral legal framework. These include the 1948 Universal Declaration of Human Rights (UDHR) Article 21(1) and (3); 1966 International Covenant on Civil and Political Rights (ICCPR) Articles 25 and 2; 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); Declaration of Principles for International Election Observation; and the African Charter on Democracy, Elections and Governance (ACDEG). “State Parties re-affirm their commitment to regularly holding transparent, free and fair elections in accordance with the African Union's Declaration on the Principles Governing Democratic Elections in Africa” (Article 17). Others are: AU

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<sup>190</sup> See INEC. *Policy on Conducting Elections in the Context of the COVID-19 Pandemic* (INEC Policy Number 01/2020). <https://www.inecnigeria.org/wp-content/uploads/2020/05/INEC-POLICY-ON-CONDUCTING-ELECTIONS-IN-COVID19.pdf>

<sup>191</sup> Ibid

Declaration on Principles Governing Democratic Elections in Africa; Guidelines for AU Electoral Observation and Monitoring Missions and the ECOWAS Protocol on Democracy and Good Governance and its 2001 Supplementary Protocol.

### **2.2.5 Landmark Judicial Verdicts**

In addition to legal frameworks determining what the electoral management body can or cannot do, antecedents in the Nigerian state show that the judiciary also plays an important role in shaping, or setting limits on, the functionality of election management bodies. The verdict of the Abuja High Court stopping the conduct of the June 12, 1993 election in conformity with demands of the Association for a Better Nigeria (ABN) provides a clear case in point. The verdict, issued by Justice Bassey Ikpeme, on June 10, 1993 ordered against the conduct of the election until charges of corruption presented by the ABN had been cleared.

The military-led administration in overruling the court order cited Decree 13 of 1993 which held that “no court ruling could alter the date and time for the conduct of an election.” Thereafter, the June 12 elections were conducted by the National Electoral Commission (NEC) and widely lauded to be free and fair. However, in the aftermath of the election, the announcement of results was suspended by NEC because of 'pending developments and actions in court.' This was followed by a litany of legal suits across Nigeria calling for the complete release of the election results. On June 29, 1993, following an appeal by NEC against the ruling of Justice Saleh, of the Abuja High Court, ruled that the election was illegal due to the neglect of the June 10 court order. Paradoxically, the military government which had initially taken a position against the June 10<sup>th</sup> verdict to suspend the conduct of the election upheld the June 29<sup>th</sup> ruling, annulled the June 12<sup>th</sup> election and abrogated decrees 13 and 52 of 1993.

A similar event unfolded at the return of democracy in 1999. Following the conduct of the 2007 General Election, INEC, the electoral umpire declared Celestine Omehia the winner of the polls for Rivers State governorship election. This declaration was contested by Rotimi Amaechi who filed a suit against INEC, arguing that his name had been illegally substituted by the electoral umpire and he is, therefore, the legitimate winner of the election. On hearing the case, the Court ruled in favour of the applicant and without

having contested an election, he was subsequently sworn in as governor of Rivers State on October 26, 2007.

The point here is that the electoral process, and by extension, election management is a complex process that is largely embedded in the context of wider legal and political culture as well as the socio-economic and developmental dynamics of the country. The post-June 12<sup>th</sup> case points to the pivotal place of political exigencies and regime type in shaping the functionality of the electoral umpire. More so, the case of Amaechi and Omehia discussed above, and other cases experienced across the country in the 21<sup>st</sup> century are pointers to the complex factors that the electoral umpires must contend with. Although efforts have been exerted towards an incremental improvement of the socio-political environment through the introduction of appropriate legal frameworks, these are often accompanied by novel challenges requiring adaptation and response

#### **2.4 Establishment of Electoral Management Bodies (EMBs)**

The conduct of elections, because of their complexities requires the existence of a specialised body to manage the process. As a result, democracies worldwide have established election management bodies to oversee their elections. The crucial place of EMBs in elections has also been highlighted by the 2012 Report of the Global Commission on Democracy, Elections and Security. The Report identified five key criteria for electoral integrity. One of these is the establishment of a “professional and competent electoral management body with full independence of action”<sup>192</sup> EMBs are therefore, necessary for administering elections that are transparent, accountable, inclusive and trustworthy. As Okpeh notes, the way and manner in which an EMB is established has a lot of implications on its performance capacity, including the type of election it would be capable of conducting, the legitimacy or otherwise of that election, and the electorate's perception.<sup>193</sup> This makes it important to consider how EMBs in Nigeria have been established.

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<sup>192</sup> The Report of the Global Commission on Elections, Democracy and Security 2012. Deepening Democracy: A Strategy for Improving the Integrity of Elections Worldwide, page 6.

[https://www.kofiannanfoundation.org/app/uploads/2016/01/deepening\\_democracy\\_0.pdf](https://www.kofiannanfoundation.org/app/uploads/2016/01/deepening_democracy_0.pdf)

<sup>193</sup> Okpeh, O.O. (2009). Election Management Bodies in Historical Perspective. *Journal of the Historical Society of Nigeria* (Vol. 18), 27-41. <https://www.jstor.org/stable/41854926>

For Nigeria, the notion of an EMB came in 1958 with the establishment of the Electoral Commission (EC). EMBs and elections in Nigeria have been largely shaped by the social, cultural, economic, and political contexts. These contexts include colonial history and struggles for independence, ethno-regional divisions, and the political economy of Nigeria. The combination of this structural and cultural base on which the country's political economy is also rested shapes the dynamics and trajectories of competitive electoral politics in the country.<sup>194</sup>

The historical context and manner in which elections were conducted from pre-colonial to contemporary times point to how EMBs came into existence in the country. Before, 1959, elections in Nigeria were conducted by regional governments; each region operated under separate electoral regulations.<sup>195</sup> However, as independence drew nearer and it became important to not only reduce costs but also promote national integration, the need for a national EMB arose.<sup>196</sup> Thus, the Electoral Commission of the Federation was established by the Nigeria (Electoral Provisions) Order-in-Council 1958. This law repealed all previous electoral laws relating to the House of Representatives including those of Lagos and the Regions.

Following the precedent set by the 1958 Order in Council, all succeeding bodies were established by statutory instruments. Statutory instruments, including the Constitution and Military Decrees served as the tools that established and empowered EMBs to oversee electoral conduct in the country.<sup>197</sup> Under colonial rule, the EMB was established through an Order-in-Council. During democratic rule, the EMB was established through the Constitution and/or a supporting Act.<sup>198</sup> Military rule, however, the EMB was established through decrees. This explains why EMBs established to conduct transition elections under military rule were re-established by constitutions following the transition

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<sup>194</sup> Jinadu, A. (2012). Preface. In *Registration and Election Review Committee Report*. Abuja: INEC

<sup>195</sup> Ayoade, J. A. (1980). Electoral laws and national unity in Nigeria. *African Studies Review*, 23(2), 39-50. Okpeh, O.O. (2009). Election Management Bodies in Historical Perspective. *Journal of the Historical Society of Nigeria* (Vol. 18), 27-41. <https://www.jstor.org/stable/41854926>

<sup>196</sup> Okpeh, O.O. (2009). Election Management Bodies in Historical Perspective. *Journal of the Historical Society of Nigeria* (Vol. 18), 27-41. <https://www.jstor.org/stable/41854926>

<sup>197</sup> Clark, J. G. The Legal Framework: The Context for an Electoral Management Body (EMB)'S Role and Powers. *International Journal of Research in Education, Science and Technology*. 3(2). 63 - 73

<sup>198</sup> AKPAN, E. E. A Strategic Assessment of the Composition, Roles and Functioning of an Electoral Management Board (EMB). *International Journal of Research in Education, Science and Technology*. 3(3). 74-82



to democratic rule, otherwise, they would have no legitimacy.<sup>199</sup> In specific cases, the body was inaugurated and allowed to conduct elections before the statutory instrument was passed. This was the case of the Federal Electoral Commission (FEDECO), which was inaugurated in 1976 and conducted elections that year before the Federal Electoral Commission Decree was later passed in 1977.

The various laws establishing these EMBs contained provisions for their composition, the mode of appointment and removal of members, the tenure of members, and so on. Since the specific establishing statutory instrument for each commission is discussed in more detail in the succeeding chapters, for now it will suffice to note that the method in which a commission was established depended on the type of political system that was in place at the time.

Accordingly, the political instability in Nigeria's history, as the country oscillated between democratic and military rulership, is reflected in the lack of continuity in the electoral commissions. In this light, it has been argued by scholars that “the experience of Nigeria shows that there is a direct correlation between political stability and an unstable electoral management system, and that this relationship is mutually reinforcing”.<sup>200</sup>

The dissolution and reconstitution of several electoral commissions in Nigeria, with changes in both name and composition, is thus a reflection of the country's chequered history in democratic politics. This contextual factor must be taken into account as we delve into critical analysis of the respective bodies.

## 2.5 Conclusion

Against the context of an imperfect electoral system, instability in the political system, and an electoral legal framework that is continually evolving, the various EMBs in Nigeria have struggled to conduct elections with integrity and credibility. In the succeeding chapters, we will take an in-depth look at each of the electoral commissions in Nigeria since 1958, paying attention to the statutory instrument establishing them, particularly by underscoring their powers and functions; composition; how they managed the electoral process; significant contributions; and challenges faced.

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<sup>199</sup> Example, INEC was established by General Abdulsalam Abubakar with Decree 17 of 1998 and re-established by the 1999 Constitution

<sup>200</sup> Adetola 2009 quoted in Okpeh, O.O. Election Management Bodies in Historical Perspective, *op. cit.*

# Electoral Commission 1958 - 1960

Chapter

3

**T**he idea for an Electoral Commission was first put on the table before independence, at the 1958 Lagos Constitutional Conference. It was felt that there was a need for uniformity, impartiality and standard methods for conduct of elections. Unlike, the past Federal Elections of 1951, 1954, and 1956/57 which as had been seen were managed by the Regional Governments under similar, but separate electoral regulations. A major reason for creating an EMB is the expected increased workload that direct elections would involve, something experienced during the 1950 Lagos Town Hall and Eastern Parliamentary Elections of 1954. Thus, the Electoral Commission (EC) was the first electoral commission to be established in Nigeria in 1958. Established during the colonial era two years before independence, it was modelled on the British Electoral Commission of the day. It was responsible for conducting Nigeria's federal parliamentary elections in 1959.

## 3.1 Establishing Statutory Instrument

The EC was established by the Nigeria (Electoral Provisions) Order-in-Council of 1958. Although the EC is commonly referred to as the Electoral Commission of Nigeria (ECN) or Federal Electoral Commission as Kurfi held,<sup>201</sup> we have adopted the language used in the establishing statutory instrument, which states, “there shall be for the Federation an Electoral Commission.”<sup>202</sup>

## 3.2 Powers and Functions

The EC was charged with the responsibility of registering voters and supervising the conduct of elections under the directive of the Governor-General. The Order-In-Council of 1958 provided for the powers of the Governor-General over the Commission, thus:

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<sup>201</sup> Kurfi, A. (1983). *The Nigerian General Elections 1959 and 1979 and the Aftermath*. Lagos: Macmillan Nigerian Publishers Ltd.

<sup>202</sup> Section 3(1), Nigeria (Electoral Provisions) Order in Council 1958

The Nigerian Electoral Provisions Order-In-Council of 1958 and The Elections (House of Representatives) Regulation of 1958:

1. The Governor-General, acting in his discretion, may by writing under his hand give directions to the members of the Commission for the purpose of enduring the impartial discharge of their functions as such.
2. The Members of the Commission shall comply with any directions given to them under this section or shall cause them to be complied with.<sup>203</sup>

Notwithstanding, the 1958 Order-in-Council, Nigeria was a colony of Britain and the EMB was merely an extension of the Colonial Office (CO), which prepared its budgets and funded it. As such, it was still operating under the Lyttleton Constitution, and Salaries were on a charge from the Consolidated Revenue Fund of the Federation as per Section 154 of the (Constitution) Order-in-Council 1954 as amended.

### 3.3 Composition

The EC consisted of a chairman, and five other members (four to represent each of the regions that included Southern Cameroons at the time and one to represent Lagos). These members were appointed by the Governor-General acting in his discretion.<sup>204</sup> The Chairman of the EC was Mr Ronald Edward Wraith, who was a British expatriate senior lecturer in Public Administration at the University College, Ibadan.<sup>205</sup> Mr Wraith was 50 years old at the formation of the EC. The Secretary to the Commission was J. J. Warren, a British Colonial Officer. Members of the EC included four Nigerians and one Cameroonian, as outlined in the table below:

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<sup>203</sup> Nigerian Electoral Provisions Order-In-Council Of 1958 and The Elections (House of Representatives) Regulation of 1958

<sup>204</sup> Section 3(3), Nigeria (Electoral Provisions) Order in Council 1958

<sup>205</sup> Kurfi. A. (2013) *Sixty Years Long March Towards Democracy (Nigerian General Elections 1951 – 2011)*. Ibadan: Safari Books Limited

**Table 3.1: Composition of the EC (1958)**

S/N	NAME	REGION	SEX	AGE <sup>206</sup>	DOB
1	Ronald Edwards Wraith - Chairman	Briton	Male	50	NA/NA/1908
2	Alhaji Muhammadu Bello (Makaman Kano)	Northern Region	Male	48	12/06/1910
3	Mr Miguel Alexander Sho- Silva	Federal Territory- Lagos	Male	N/A	N/A
4	Dr Orishejolomi Horatio- Thomas	Western Region	Male	41	NA/NA/1917
5	Mr Anthony Nnaemezie Aniagolu	Eastern Region	Male	36	23/10/1922
6	Mr Kole Ben Achang de Bohn <sup>207</sup>	Southern Cameroons	Male	N/A	N/A
	J. J. Warren - Secretary	Briton	Male	N/A	N/A

A glaring point from the table above is that all members of the Commission were male. This reflects the lack of diversity and inclusion within the Commission at the time. This absence of inclusivity reflects the broad reality of the lack of uniform universal adult suffrage in pre-independence and immediate post-independence eras in Nigeria. While universal adult suffrage, of both male and female, was allowed in the Eastern and Western regions as early as 1954, it was not until 1979 that women in Northern Nigeria were granted the right to vote. The lack of female membership in the 1958 EC was likely an outcome of the existential reality of limits placed on adult suffrage in Nigeria at the time.

### 3.4 Managing the Electoral Process

Elections were conducted under a set of statutory national election regulations known as Nigeria (Electoral Provisions) Order-in-Council, 1958 and Elections (House of

<sup>206</sup> Members age at the time of joining the Commission

<sup>207</sup> De Bohn's tenure was terminated 1<sup>st</sup> January, 1961. Even though the exit Plebiscite for Southern Cameroon was to take place 11<sup>th</sup> February, 1961. Southern Cameroons had already made it clear in so many ways they were leaving Nigeria. It was just a question of when and how?

Representatives) Regulations, 1958. These regulations were agreed to at the 1957/8 London/Lagos Constitutional Conference and they replaced all Regulations to the House of Representatives of 1954 including those of the Regions and Lagos. However, these regulations were non-uniform and not universally implemented as females still could not vote in Northern Nigeria in these elections.

Before this time, there was no Voters' Register. It had to be compiled by the Commission on a regional basis and typed in Lagos. The registers were compiled on a regional basis for use by the Regions for their House of Assembly Elections. The Commission further assigned generally not more than 500, but not exceeding 2, 000 voters to a registration area (RA) within a Constituency, ensuring voters did not have to travel more than three miles to cast their votes.<sup>208</sup> For the election they allotted at least one polling unit (PU) per registration area and assigned the voters to a polling unit. The Government attempted to do some voter education by advertising in the Daily Times on issues that bordered on: the importance of voting, the need for secrecy, and not voting based on ethnicity or the boss' choice.<sup>209</sup>

The NCNC changed its name to the National Council for Nigerian Citizens after Southern Cameroons left the Eastern Region and became a quasi-Federal Territory.<sup>210</sup> The NCNC was started in Lagos with a national outlook.<sup>211</sup> However, serious polarization on ethnic lines started in the Western Region just before the 1951 Elections.<sup>212</sup> The NCNC continued to have a strong following in Lagos because the Lagos elites and parts of the Western Region were nationalistic and saw AG as a regional party. The NCNC's longest and most faithful ally was NEPU who represented the northern masses, who wanted to change the status quo in the North and shake up the northern establishment represented by the NPC.<sup>213</sup> While the NPC and its leaders made no bones about its purpose, as its name,

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<sup>208</sup> Nigeria (Electoral Provisions) Order in Council, 1958  
Elections (House of Representatives) (Amendment No.2) Regulations, 27th November, 1958

<sup>209</sup> Daily Times 29<sup>th</sup> November, 1959

<sup>210</sup> Omipidan, T. (2020). The National Council of Nigeria and The Cameroons (NCNC). <https://oldnaija.com/2020/04/01/the-national-council-of-nigeria-and-the-cameroons-ncnc/>

<sup>211</sup> Baba, Y. T. (2021). Are Multiparty Elections in Nigeria Competitive or Confrontational? Interrogating the Democraticity of Political Parties in Nigeria's Fourth Republic. *Nnamdi Azikiwe Journal of Political Science*, 7(1), 29-46.

<sup>212</sup> Diamond, L. (2015). Chapter 11: Class, Ethnicity, and the Democratic State: Nigeria, 1950–1966. In *Search of Democracy* (pp. 203-233). London and New York: Routledge.

<sup>213</sup> Etekpe, A. (2007). *Minority Politics in Nigeria: The Case of the South-South and Middle Belt Regions*. Port Harcourt: Kemuela Publications.

Northern People's Congress suggests, it was a regional party. NPC brooked no opposition in the North and to a degree in the Middle Belt, where smaller ethnic based Parties and general opposition to the northern establishment thrived. Some of these smaller minority Parties in the North like the Igbira Tribal Union, and the Igala Union formed alliances with the NPC for the 1959 Elections.<sup>214</sup> The Harold Dappa-Biriye-led Niger Delta Congress (NDC) also threw their lot with NPC in hope of getting a State outside the Igbo dominated Eastern Region<sup>215</sup> Even with the Mobolaje Grand Alliance, the NPC failed to get more than a simple majority of the Seats in 1959.

The AG emerged out of a Yoruba cultural association, but had some following in the mid-western part of the Western Region.<sup>216</sup> Indeed, the Mid-West Party, Midwest Democratic Front merged with AG.<sup>217</sup> During the 1959 Election, Awolowo and the AG did campaign all over the country and formed alliances with smaller parties disgruntled within their own Regions in other parts of the country. Northern opposition Parties such as United Middle Belt Congress aligned with the AG, because of their belief in federalism and a promise of their own State.<sup>218</sup> There is, however, no record of AG committing to let go of the minorities in the mid-western part of Western Region, who were also agitating for their own State.

In the conduct of the pre-independence legislative elections by the EC in 1959, there were localised accounts of electoral violence and instances of undue influence by the British colonial government.<sup>219</sup> Not unexpectedly there were a number of election petitions ranging from fielding unqualified candidates to ballot box stuffing. As per the regulations, election petitions were filed at the High Court of the region where the election was held. Petitions for elections to the House of Representatives were governed by another set of regulations known as the 'Federal Legislative Houses (Disputed Seats) Regulations, 1959. Aside from legal costs, the fact that a deposit of not more than 100 Pounds was

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<sup>214</sup> *ibid*

<sup>215</sup> *Ibid*

<sup>216</sup> Ayoade, J. A. (1985). Party and ideology in Nigeria: A case study of the Action Group. *Journal of Black Studies*, 16(2), 169-188.

<sup>217</sup> Mackintosh, J. P. (1963). Politics in Nigeria: the action group crisis of 1962. *Political Studies*, 11(2), 126-155.

<sup>218</sup> Osaghae, E. E. (1991). Ethnic Minorities and Federalism in Nigeria. *African Affairs*, 90(359), 237-258.

<sup>219</sup> See Iyayi, F. (2006). Elections, INEC and the Problem of Election Mindsets in Nigeria. *TEI Lecture Series No.4*. Paper presented at INEC National Conference on "Nigeria's 2007 General Elections: The Challenges Ahead". Sheraton Hotel Abuja

required, might have reduced the number of petitions filed. Interestingly, Election Petitions had priority over all other new matters in court, helping ensure they were promptly disposed of before 'winners' assumed of office. High Court judgements could be appealed at the Supreme Court, a few cases on record were: S.A. Yerokun Versus K. Adeleke May 31, 1960, Akande v. Adedamola, November 10, 1960, Samuel Olushola Ojo Versus I. W. J. Falaiye, and J. A. Ibuje, June 8.

It has been asserted that the 1959 Election and subsequent ones in 1964, 1979 and 1983 were all “fraught with various levels of irregularities and anomalies.”<sup>220</sup> To its credit, the 1959 elections appeared to be relatively smooth, and paved the way for the country to become independent almost a year later.

### **3.5 Significant Contributions**

As the first electoral commission in the country, the EC's major contribution was that it conducted the first nationwide voter registration across the various regions in the country<sup>221</sup> It also created polling units and assigned not more than 500 voters per PU. The Commission also provided important precedents for others to follow, such as the representation of sub-national units within the Commission, the appointment of members of the Commission by the executive, with five-year tenures for members. Given that the EC also conducted the 1959 Elections, it can also be said that the Commission ushered Nigeria into independence and paved the way for the start of the First Republic.

### **3.6 Challenges and Lessons**

Nigeria had been divided into three regions administratively, with Lagos as the capital since the Richards Constitution of 1947. With each region dominated numerically by a major ethnic group, regionalisation of the political parties was a fairly natural consequence, in addition, the colonial regime finding it more than expedient. However, it was the aftermath of the Enahoro Independence motion that forced the colonial

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<sup>220</sup> Yusuf, M. I. (2019). Electoral Violence in Nigeria: Disentangling the Causes. *Research on Humanities and Social Sciences* Vol. 9(10):38-47, p. 39

<sup>221</sup> The Electoral Institute (2011). *An Overview of Election Management Bodies (EMBs) in Nigeria 1958-2010*. Abuja: TEI-INEC.

government to allow the administrative regions to become more insular and independent under the Lyttleton Constitution. Thus, accelerating the pace towards self-government under a full federation based on three regions dominated by the three largest ethnic groups. Requests by the minorities for consideration as states due to fears of domination by the majority ethnic group in their region were investigated by the Willinks Commission, particularly that of Dappa- Biriye concerning domination by the Igbos who were the majority in the Eastern Region. However, breaking up the Regions before independence was ruled out.

Although the political parties that were in existence at the time predated the establishment of the EC, the Commission had no legal power to address their ethno-regional composition. While at the time the power laid with the Governor-General to make electoral laws and regulations, the Colonial Government had been interacting with the political parties since their formation and saw no reason to change the *status quo* of the dominant party in each of the Regions. Moreover, the only reference the colonial government made to ethnicity in the election legislation was banning certain symbols (including tribal or religious) from being registered as party logos under section 141 (3a – d), of the Electoral Regulations.<sup>222</sup> Other than that, the colonial government did not see or foresee ethnic parties as a problem. As we have tried to demonstrate in this chapter so far, the intra-ethnic or intra-regional rivalry caused more of a direct problem than inter-ethnic rivalry did. Be that as it may, the Commission had no power to address such issues, as most of the control over elections was still vested in the colonial government. The Commission only had control over operational matters including timing and postponement of an elections on good reasons. In addition, political parties were barely mentioned in the Constitution and Electoral Regulations.

The Colonial Government agreed to self-rule over most issues for the Regions with a dominant party at the centre, in the hope that alliances would be formed with other parties that would keep Nigeria together. Hence at the 1957/1958 Constitutional Conferences, it was agreed the Northern Region would control 174 of 312 Seats in the House of Representatives based on population. Only, the NCNC started off as a party with a

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<sup>222</sup> Nigerian Electoral Provisions Order-In-Council Of 1958 and The Elections (House of Representatives) Regulative of 1958



national outlook, but by 1959, it was largely associated with the Eastern Region, with some following and stalwart members in Lagos and the Western Region. The NPC by name and the design of Nigeria's political structure did not need to foray outside the Northern Region. While the AG was mainly associated with the Western Region, that did not stop them from campaigning heavily in the North that had the most seats, going as far as Sokoto to campaign for votes. The AG also campaigned in the East where they hoped to poach for minority votes.

This is not to say ethno-regional cleavages and intra-ethnic conflicts and tensions did not pave the way for the extensive political violence that was witnessed five or six years later. As discussed in this chapter, these are some of the factors that led to the breakdown of democracy in 1966.

Another challenge faced by the Commission was that it was not gender inclusive in its composition, as all its members were male. This lack of gender inclusion is one negative precedent that has been followed by succeeding electoral commissions in Nigeria. This mode of leadership recruitment that was not gender sensitive was unbroken, and continued to be the vogue until the Second Republic in 1979.

### **3.7 Conclusion**

In the end none of the political parties were able to get an absolute majority in the 1959 General Election, although, the NPC was able to get a plurality of votes or the most seats. All the three major parties had Independents and minority parties from within their regions that would team up with them. At the same time there were minority groups and independent candidates who would prefer to team up outside their own region with one of the major parties. For example, in the 1959 Election, Dappa-Biriye and his NDC threw in their lot with the NPC, Joseph Tarka and his MBC aligned with AG, and as always Aminu Kano and NEPU maintained their long-standing alliance with the NCNC. Whilst alliance talks were going on between the NPC and the NCNC, as well as between NPC and AG;

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<sup>223</sup> Sir Abubakar Tafawa Balewa was the Deputy Leader of the NPC, but was the leader of the Party at the Central Legislature because the leader Sir Ahmadu Bello, Sardauna of Sokoto, declined to become a Member of the House of Representatives in Lagos. He preferred to be Premier of the Northern Region and stay in the North. This was the opposite of what happened with Awolowo, former leader of Action Group and his Deputy, S.L. Akintola.

Sir James Robertson, the Governor-General approached Sir Abubakar Tafawa Balewa<sup>223</sup> and asked him to be Prime Minister and form a government. These further buttresses the point about the limited power of the EMB, as only the Governor-General could declare a winner. Mr. Reginald Sorensen who was a Fabian socialist and an old friend of the nationalists and West African Student Union (WASU), asked a question in Parliament in the UK House of Commons on December 17 about the 1959 Election Result, the debate that ensued, gives some indication of what went on.

### **Box II: Excerpt from the UK Parliament Debate on the Nigerian 1959 Election**

**Mr. Sorensen**

*asked the Secretary of State for the Colonies if he will make a statement in respect of the result of recent elections in Nigeria and the procedural timetable between now and the establishment of Nigerian independence.*

**Mr. J. Amery**

*The Northern People's Congress will be the largest party in the new House. I understand that the Governor-General has invited its Leader in the House, Alhaji Abubakar Tafawa Balewa, the present Prime Minister, to form a Government. My right hon. Friend's predecessor told the 1958 Constitutional Conference that if a resolution was passed by the new Federal Parliament early in 1960 asking for independence, Her Majesty's Government would agree to that request and would introduce a Bill in Parliament to enable Nigeria to become fully independent on 1st October, 1960. I am sure the House would wish me to take this opportunity of expressing their cordial good wishes to the new Government of Nigeria, as it is the last chance we shall have of doing so before the House rises.*

**Mr. Sorensen**

*Whilst expressing every agreement with the sentiments uttered by the hon. Gentleman, may I ask whether there is any information available on the possibility of a coalition between any two of the parties?*

**Mr. Amery**

*I have no information to give the House at the moment.*<sup>224</sup>

<sup>224</sup> Hansard: Volume 615: debated on Thursday 17 December 1959

The EC was significant, not only because it paved the way for Nigeria's independence, but also because it was the first national EMB in Nigeria. Although it faced challenges, it can be commended for successfully conducting the election that heralded Nigeria's independence, and for setting certain precedents for other commissions to follow.

# Electoral Commission of the Federation 1 - 1960-1963

## Chapter 4

**C**ontrary to popular belief, the Electoral Commission did not cease to exist immediately after independence. It was this Commission headed by the Chairman and Chief Electoral Officer, that oversaw the Regional Elections, deciding on dates, and secondment of Staff from the Civil Service where necessary. Therefore, an EMB would be required to conduct any election arising therefrom. At independence on October 1, 1960, a new Constitution known as the Independence Constitution came into effect. It made provision for the establishment of an Electoral Commission, notwithstanding that the five-year tenure of the one inaugurated in 1958 was still on.

### 4.1 Establishing Statutory Instrument

Following the attainment of independence in 1960, Section 45 of the Independence Constitution established an electoral commission, namely, the Electoral Commission for the Federation. The excerpt from Section 45 below shows the provisions establishing the ECF, its composition and other related information.

#### **Box III: Provisions Establishing ECF I – 1960 -1963**

- (1) There shall be an Electoral Commission for the Federation.
- (2) The members of the Electoral Commission of the Federation shall be-
  - (a) a Chief Electoral Commissioner, who shall be chairman; and
  - (b) a member representing each territory.
- (3) The members of the Electoral Commission of the Federation shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.
- (4) Before tendering any advice for the purposes of this section in relation to the appointment of the member of the Electoral Commission of the Federation representing a Region, the Prime Minister shall consult the Premier of that Region.

- (5) A person shall not be qualified to hold the office of a member of the Electoral Commission of the Federation if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation, a Minister of the Government of a Region or a member of the public service of the Federation or the public service of a Region.
- (6) Subject to the provisions of this section, a member of the Electoral Commission of the Federation shall vacate his office (a) at the expiration of five years from the date of his appointment; or (b) if any circumstances arise that, if he were not a member of the Commission, would make him to be disqualified for the appointment as such.
- (7) A member of the Electoral Commission of the Federation may be removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.
- (8) A member of the Electoral Commission of the Federation shall not be removed from office except in accordance with the provisions of this section.
- (9) In the exercise of its functions under this Constitution the Electoral Commission of the Federation shall not be subject to the direction or control of any other person or authority.”

## 4.2 Powers and Functions

The expatriates did not all leave Nigeria at independence. Many of them were seconded from the Civil Service to the federal and regional electoral bodies for the 1959 Election and this continued after independence. The Secretary of ECF I, Mr. J.J. Warren was still very much around. By 1961 Mr J.J. Warren had become a Federal Census Officer and combined this duty with his responsibilities as Secretary to ECF using the same office. He was assigned Electoral Staff for Elections in February 1962 as Secretary to the Federal Electoral Commission.<sup>225</sup> As Chief Census Officer, he conducted the 1962 Census, he was

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<sup>225</sup> Federation of Nigeria Official Gazette No. 11 dated-1962-02-18, No. 49

later removed by the Prime Minister, Sir Abubakar Tafawa Balewa, for issues arising from the Results. Incidentally, the latter matter eventually broke the coalition between the NCNC and NPC. While, combining these two positions was not formalised, it was the practice, because the same thing happened with Sir Kofo Abayomi who took over as Chief Census Officer from Warren and conducted the equally controversial 1963 Census, which took place from November 5-8, 1963.<sup>226</sup> Yet, Abayomi had become Chairman of ECFII on September 9, 1963 and was still there until April 1964.<sup>227</sup> Whatever, the case the 1963 Census Results were eventually accepted.

After Independence, it was still necessary to make amendments to existing electoral regulations, as the colonial provisions did not cover all situations in an independent Nigeria. A case in point is the need to remove non-Nigerian Citizens who were on the electoral roll, courtesy of colonial regulations for British Subjects. This law was known as The Electoral (Transitional Provisions) 1961.

In 1962, a comprehensive Electoral Act was passed, to give more uniformity to federal election regulations. Although females in Northern Nigeria were still prohibited from voting.<sup>228</sup>

It was also necessary for the Commission to maintain the federal electoral register which was also used by the Regions for their House of Assembly Elections. There were also by-elections. For example, under the Electoral (Transitional Provisions) Act 1963 (1963, No.5) (Elections House of Representatives) Regulations, 1958, the Governor-General of the Federation would send out a Notice in the Gazette as he did for elections to the House of Representatives in Urhobo West Constituency No.234,<sup>229</sup> to be held September 24, 1963; Jibiya Kaita Constituency No. 113<sup>230</sup> and Keffi Constituency No. No.31<sup>231</sup> to be held on Saturday September 28, 1963.<sup>232</sup>

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<sup>226</sup> Alao, A. (2001) The Republican Constitution of 1963: The Supreme Court and Federalism in Nigeria, 10 U. *Miami Int'l & Comp. Law Rev.* 91 (2001)

<sup>227</sup> Ibid

<sup>228</sup> Electoral Act 1962

<sup>229</sup> Government Notice No. 1724

<sup>230</sup> Government Notice No. 1725

<sup>231</sup> Government Notice No. 1726

<sup>232</sup> Federation of Nigeria Official Gazette of September 3, 1963, No. 64 Vol 50.

<https://archive.gazettes.africa/archive/ng/1963/ng-government-gazette-dated-1963-09-03-no-64.pdf>

### 4.3 Composition

According to the Independence Constitution of 1960, the ECF was to consist of six members. These include the Chief Electoral Commissioner, who shall be the Chairman<sup>233</sup>; and one member each representing the three regions and the Federal Territory, Lagos. In the immediate post-independence era, new appointments were not made to the Commission as the five-year tenure of members of the EC was still ongoing. This point has been alluded to in many documents including the Uwais Commission Report which noted that Eyo Esau only became the second head of an EMB in Nigeria in 1964. On this note, in the immediate post-independence period, membership of the Commission remained the same as that which conducted the 1960 election. Mr. Wraith remained the Chairman, J. J. Warren remained the Secretary, while other Nigerian and Cameroonian members also remained the same:

**Table 4.1: Composition of the ECF I (1960)**

S/N	NAME	REGION	SEX	AGE <sup>234</sup>	DATE OF BIRTH
1	Ronald Edwards Wraith Chairman	Briton	Male	50	NA/NA/1908
2	Mr Miguel Alexander Sho-Silva	Federal Territory - Lagos	Male	N/A	N/A
3	Alhaji Muhammadu Bello (Makaman Kano)	Northern Region	Male	48	12/06/1910
4	Dr Orishejolomi Horatio- Thomas	Western Region	Male	41	NA/NA/1917
5	Mr Anthony Nnaemezie Aniagolu	Eastern Region	Male	36	23/10/1922
6	Mr Kole Ben Achang de Bohn <sup>235</sup>	Southern Cameroons	Male	N/A	N/A
	J. J. Warren – Secretary	Briton	Male	N/A	N/A

<sup>233</sup> 1960 Constitution of the Federation of Nigeria, Section 44, Subsection 4(2a)

<sup>234</sup> Age at the time of joining the Commission

<sup>235</sup> De Bohn's tenure was terminated January 1, 1961. Even though the exit Plebiscite for Southern Cameroon was to take place 11<sup>th</sup> February, 1961. Southern Cameroons had already made it clear in so many ways they were leaving Nigeria. It was just a question of when and how?

#### 4.4 Managing the Electoral Process

The 1961 regional elections were conducted following similar patterns as the 1960 general election. Considering the dominance of major parties in their respective regions, the dominant parties in each of the respective regions emerged winners in their region. In the Northern Region, the NPC won by securing the majority of votes in the region. For the Eastern Region, the outcome of the election conducted on November 1961 saw the victory of NCNC. The election conducted in the Western region, on July 1960, also had a similar pattern with the AG, the dominant party in the region securing a majority of votes (79 of 122).

To conduct the regional election, the Commission relied on the register of voters earlier compiled ahead of the General Election in 1959. The same delimitation was used. There were not more than 500 voters in each Registration Area (RA) within a Constituency.<sup>236</sup> For the Election they allotted at least one Polling Unit per Registration Area and assigned the Voters to a Polling Unit. The Government attempted to do some voter education by advertising in the Daily Times: It covered the importance of voting itself, the need for secrecy, and not voting based on ethnicity or the Boss' choice.<sup>237</sup>

#### 4.5 Significant Contributions

This Commission was, essentially the same as the EC, as such, its significant contributions are largely the same as those of the EC highlighted in the preceding chapter. Given the Commission's conduct of the regional elections in 1961, it is important to add here that the Commission oversaw what could pass for the immediate post-independence election in Nigeria. Although the regional elections conducted in the Northern and Eastern regions were not country-wide and are not as widely discussed as the 1964 elections, they were the first elections conducted in post-independence Nigeria.

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<sup>236</sup> Nigeria (Electoral Provisions) Order in Council, 1958 Elections (House of Representatives) (Amendment No.2) Regulations, November 27, 1958

<sup>237</sup> Daily Times November 29, 1959



## **4.6 Challenges and Lessons**

The major challenge ECF faced as a Commission in the conduct of the regional elections in the immediate post-independence period stemmed from the ethnic character of politics. This meant that every region had a dominance of the major ethnic group in the political processes of the region. The Commission was not empowered to address this ethnic character of politics and had to conduct the elections within the confines of existing socio-political dynamics.

Another issue worth noting is that despite the transition from a colonial territory to a sovereign state, the Commission remained under the leadership of colonial expatriates, Wraith and Warren. It was also not inclusive as the commission had only males as members.

## **4.7 Conclusion**

Generally, the Electoral Commission (EC), established in 1958 to oversee and conduct the 1959 General Election leading up to Nigeria's independence, maintained its authority until 1963. This period marked a crucial juncture in Nigeria's political evolution, characterized by significant constitutional changes and the transition to a republican form of government. On attainment of independence, however, the Independence Constitution of 1960 established in Section 45, an Electoral Commission of the Federation. Within this period, members of the EC remained the same as those originally constituted in 1958 and they oversaw the immediate post-independence regional elections of 1961.

When Nigeria became a Republic in 1963, the promulgation of the Republican Constitution in 1963 heralded a new phase in Nigeria's political landscape, necessitating institutional reforms to align with the evolving constitutional framework. As a result, a new Electoral Commission, under the leadership of Esau, was established to navigate the intricacies of the republican system and oversee subsequent electoral processes.

# Electoral Commission of the Federation II - 1963-1966

Chapter

5

**T**he second Electoral Commission of the Federation (ECF) was established in 1963. It was the first electoral commission in independent Nigeria that consisted only of Nigerians. The second ECF<sup>238</sup> conducted the 1964 General Election.

## 5.1 Establishing Statutory Instrument

The second ECF was established by the 1963 Constitution when Nigeria became a Republic on October 1, 1963. The 1963 Constitution replicated the 1960 Constitution almost word-for-word, apart from minor variations to reflect the fact that Nigeria was now a Republic with a new region, the Mid Western Region.<sup>239</sup> In this light, the establishing section for each of the Constitutions is the same: “There shall be an Electoral Commission for the Federation....”<sup>240</sup>

## 5.2 Powers and Functions

The ECF was generally charged, under Section 53(2) of the 1963 Constitution, with the responsibility of registering voters and supervising the conduct of elections.<sup>241</sup> Beyond this, the legal instrument contained other electoral provisions with potential bearing on the actions of the Commission, thus:

- A person shall be eligible for election as the President if: (a) he is a citizen of Nigeria who has attained the age of forty years.<sup>242</sup>
- The President shall be elected by secret ballot at a joint meeting of both Houses of

<sup>238</sup> Commonly referred to as FEC in literature but for this paper we are using the nomenclature in its establishment law – 1963 Constitution.

<sup>239</sup> Mid-West Region was created in 1963

<sup>240</sup> Section 45(1), 1960 Constitution; section 50(1), 1963 Constitution

<sup>241</sup> Section 47(2), 1960 Constitution; section 52(2), 1963 Constitution

<sup>242</sup> Section 35(1), 1963 Constitution

Parliament held for the purpose of electing the President (hereafter in this section referred to as an "election meeting"); and each member of Parliament shall be entitled to a single vote in each ballot for the election of the President taken at such a meeting (hereafter in this section referred to as a "presidential ballot").<sup>243</sup>

### 5.3 Composition

Like the first ECF, the second ECF consisted of a chairman and five other members (four to represent each of the regions and one to represent Lagos). These members were appointed by the Governor-General (later the President) acting by the advice of the Prime Minister and, in the case of a member representing a region, in consultation with the Premier of that Region.<sup>244</sup>

Unlike its predecessor, the second ECF was headed by a Nigerian, Sir. Kofo Abayomi though briefly (September 1963 -April 1964). The 1960 Constitution was still in place when he was appointed on September 9, 1963<sup>245</sup>, almost five years to the day after the first ECF's tenure started. He was from the Western Region and 67 years old at the time. Although a medical doctor, he was once an active politician who even chaired the NYM, before returning to School for post-graduate studies in 1941.

Regions conducted their elections through their EMBs, which were staffed and controlled by the regional governments. However, by law the Chairman of the Federal EMB chaired the regional EMBs as per the Regional Constitutions.<sup>246</sup> Therefore, as Chairman of ECF, Sir Kofo Abayomi chaired the new Mid-West EMB and supervised the February 1964 House of Assembly Elections. Several laws and amendment had to be passed to cover the Mid-Western Region which did not exist at independence. These included: The Mid-Western Region (Transitional Provisions) Act, The Constitution of Mid-Western Nigeria, 1963, Mid-Western 1963 Parliamentary Electoral Regulations - (Amendment No. 2) Order, 1964, which came into effect on January 10, 1964 and the Mid-Western Parliamentary Election (Validation) Order, 1964, which came into force on January 27, 1964.

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<sup>243</sup> Section 35(2), 1963 Constitution

<sup>244</sup> Section 45(3) and (4), 1960 Constitution; section 50(3) and (4), 1963 Constitution

<sup>245</sup> Sir Abayomi appointment is reflected in Government Notice No 1802, Official Gazette September 19, 1963

<sup>246</sup> The Constitution of the Mid-Western Region 1963

The Western Region was undergoing troubled times. The indictment of Awolowo by the Coker Commission of Inquiry for improper handling of regional fund and his subsequent incarceration for treason, all added to the tension in the Region. According to a report on Lagos Radio of January 26, 1964, the Mid-Western House of Representatives Election attracted a lot of criticism from the NCNC. The party asked Abayomi to resign before taking charge of the upcoming federal elections due to allegations of rigging concerning preparations and registration of candidates for the Mid-West Regional Election. Added to the allegations of rigging was the controversy surrounding the 1963 Census that he conducted. With the attendant growing tension in the Western Region, and the mood in the Western Region and the country generally, Abayomi resigned as the Chairman of the Federal EMB a few months after the Mid-Western Regional Election was held.

Shortly, Abayomi was replaced by Mr Eyo Eta Esua on May 1, 1964.<sup>247</sup> From Eastern Region. Mr Esua was 63 years old as at the time of joining the Commission in 1964. Esua was once a teacher, a founding member of the National Union of Teachers, and its one-time Secretary General. He was an activist and along with Dr Azikiwe, Balonwu, Onajobi, Okorududu and others, was a member of the 1942 Nigerian Reconstruction Group, a non-political, research organization made of a small group of intellectuals, whose objective was to conduct research into various aspects of Nigerian national life - politics, economics, education and sociology - with a view to finding solutions to the country's problems.<sup>248</sup>

Members of the Commission were:

**Table 5.1: Composition of the ECF II (1963)**

S/N	NAME	REGION	SEX	AGE	DOB
1	Kofo Abayomi <sup>249</sup> - Chairman	Western Region	Male	67	10/07/1896
	Eyo Eta Esua <sup>250</sup> - Chairman	Eastern Region	Male	63	NA/NA/1901
	Michael Ani - Chairman	Eastern Region	Male	N/A	N/A

<sup>247</sup> Chairman Esua resigned December 15, 1965 and Michael Ani was appointed by the President of the Senate and Acting President Dr. Nwafor Orizu with effect from December 16, 1965 but never got inaugurated before the military intervention of January 15, 1966. Dr Nwafor Orizu was Senate President, 1960 - 1966

<sup>248</sup> Adedeji, J.A. (1973). The Church and the Emergence of the Nigerian Theatre: 1915–1945. *Journal of the Historical Society of Nigeria*. Vol. 6 (4), pp. 387-396

<sup>249</sup> Kofo Abayomi's Tenure 01-09-1963–04-1964

<sup>250</sup> Eyo Eta Esua's Tenure 01-05-1964-15-12-1965.

2	Alhaji Muhammadu Bello (Makaman Kano)	Northern Region	Male	N/A	N/A
3	Mr Anthony N. Aniagolu <sup>251</sup>	Eastern Region	Male	41	23/10/1922
	Prince S. B. Obioah	N/A	Male	N/A	N/A
4	Dr Joseph Adejumobi Adegbite	Western Region	Male	N/A	N/A
5	Prince David Akenzua <sup>252</sup>	Mid-Western Region	Male	N/A	N/A
6	Rev. Cannon Beniah Adelaja <sup>253</sup>	Lagos	Male	51	21/08/1912
	Chief Dr. E.N. Shodeinde <sup>254</sup>	Lagos	Male	N/A	N/A
	Mallam Waziri Abdu- Secretary	N/A	Male	N/A	N/A
	A.A. Oladimeji <sup>255</sup> -Secretary	Western Region	Male	N/A	N/A

Like its predecessor, all members of this ECF were male. Also, of note is that two members Alhaji Muhammadu Bello and Mr. Anthony Aniagolu who were both appointed on September 1, 1958, secured second terms in the second ECF under the Republican Constitution.

#### 5.4 Managing the Electoral Process

Undoubtedly, the second ECF faced a herculean challenge, having been tasked with the burden of conducting the first federal elections in independent Nigeria. Against the context of the intra-ethnic political crises in the Western Region and ethno-regional tensions already rising in the country, the ECF's task was even harder. Despite the population increase in the 1963 census figures,<sup>256</sup> the Commission still stuck to the

<sup>251</sup> Anthony Aniagolu Resigned December 1, 1964 and was reappointed January 18, 1965, resigned again and was replaced by Prince S.B. Obioah with effect from December 1, 1965

<sup>252</sup> Prince David Akenzua resigned December 1, 1964

<sup>253</sup> Beniah Adelaja also resigned in 1965 as protest against the Chairman Esua over the conduct of the 1964-65 elections

<sup>254</sup> Dr E.N. Shodeinde replaced Rev. Adelaja with effect from December 31, 1964

<sup>255</sup> A.A. Oladimeji replaced Mallam Waziri Abdu on October 19, 1964

<sup>256</sup> There were more Constituencies before the exit of Southern Cameroons with its 8 Constituencies. In 1958, there were 320 Constituencies demarcated, including Cameroon. However, from the results for the 1959 Elections, there were only 312 Constituencies and no results were recorded for Southern Cameroons because they did not vote in the Independence Elections, as they had clearly indicated they wanted to leave Nigeria by forming purely Cameroonian Parties, having their own Assembly and were in fact more or less managing their own affairs under a High Commissioner and Governor from Britain. A Referendum was conducted in February 1961 where Southern Cameroons voted to join the already independent French Speaking Republic of Cameroons. Thus, 320 Constituencies minus the 8 Constituencies of the Cameroons equals 312 Seats.

previously allocated 312 constituencies provided in the House of Representatives since 1959.<sup>257</sup>

This ECF conducted the December 30, 1964, General Election<sup>258</sup> for seats in the Federal House of Representatives and the Regional Houses of Assembly with supplementary elections on March 18, 1965, for seats in the Western Regional House of Assembly due to a boycott of the December 1964 Federal Elections.

The run-up to the 1964 Federal Elections was both politically and administratively tasking for the EMB. Dr Azikiwe had earlier demanded the election be postponed to allow the United Nations to intervene by conducting the elections. The Prime Minister felt it would be embarrassing. The opposition alliance, UPGA, as well as the President, Dr Nnamdi Azikiwe were extremely dissatisfied with the handling of the preparations for the election, including the ruling party-led coalition's underhand tactics. There were many cases of UPGA candidates being prevented from registering by the civil servants who were in charge. This of course, led to candidates being returned unopposed. Some candidates were also subjected to violence and intimidation. Political campaigns were very difficult for those who needed to do so outside their region or strongholds. A peace accord had to be signed by all the parties, but it was largely unenforceable, because the Native Authority Police from whom campaign permits were obtained were run by the relevant ruling parties.<sup>259</sup> The Commission received complaints and petitions about the actions of ruling parties and the difficulty in conducting country-wide campaigns from all over the country.

As far back as December 22, 1964 the Chairman had made a statement about this where he cited irregularities including institutional rigging such as preventing candidates from registering and submitting nomination forms, thus allowing for the return of unopposed candidates, lack of secrecy to vote, as some polling units (PUs) had no booths or they did not conform to standards set by the Commission, including siting them in private compounds or houses. The ECF Chairman said an announcement would be made to

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<sup>257</sup> Before the 1959 Elections 320 Constituencies had been allocated by the Colonial Government, 8 of these were for Southern Cameroons, leaving 312 for Nigeria.

<sup>258</sup> The 1964 general election was boycotted in Western region

<sup>259</sup> Different region had different ruling party

remove confusion as to which candidates would be returned unopposed and those that would have to contest.<sup>260</sup> Unfortunately, little more was heard from him about this until his resignation after the 1965, Western Region Elections.

Failure by Esua as Chairman of ECF to heed calls for the postponement of the elections from within and outside the EMB led to the resignation of three Commission Members on December 30, 1964. It was reported by Enugu Radio on December 29, 1964, that at a meeting of the Commission, two of the three resigning Commissioners voted for a complete postponement and one opted for a partial postponement. They cited similar irregularities and anomalies, as the Chairman as well as en masse resignation of election and returning officers due to fear and intimidation. The Commissioners felt unable to continue, as they could not deliver free and fair elections under these circumstances.<sup>261</sup> The extant Electoral Act undoubtedly gave Esua the power to postpone the elections as clearly indicated in Sections 156 (1 & 2).<sup>262</sup>

“156 (1) Where a date is appointed for holding an election and there is reasonable cause to apprehend that a serious breach of the peace is likely to occur if the election is held on that date, the Electoral Commission may postpone the election until some later date to be appointed by the Electoral Commission, after consultation with the Clerk of the Parliaments.

156(2) If the Electoral Commission is satisfied that there has been a substantial failure to comply with the requirements of this Act before the date fixed for holding the election in respect of nominations or otherwise however, the Electoral Commission may postpone the election until such time as such requirements are satisfied.”<sup>263</sup>

A boycott of elections in parts of the East, Lagos and the Mid-Western Region followed on December 31, 1964. Ultimately, the elections themselves were said to have been

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<sup>260</sup> Daily Times December 23, 1964

<sup>261</sup> Daily Times December 30, 1964

<sup>262</sup> However, he did not postpone the elections for reasons best known to him.

<sup>263</sup> Section 156(1-2), Electoral Act 1962, No 31. Supplementary to Official Gazette Extraordinary N0. 93, Vol 49, November 23, 1962

Part V – Miscellaneous, Section 156 (1-2), pages A373 -A374 provides for special power to postpone election. <https://archive.gazettes.africa/archive/ng/1962/ng-government-gazette-supplement-dated-1962-11-23-no-93-part-a.pdf>

rigged in favour of the Nigerian National Alliance (NNA) who were declared winners by the EMB.

The controversial win of NNA and the aftermath of the untidy 1964 Federal Election exacerbated the already widening rift between the President, Dr Nnamdi Azikiwe and Prime Minister, Sir Abubakar Tafawa Balewa. The latter told the losers to go to court. Dr. Nnamdi Azikiwe refused to perform his presidential duty under the constitution by not asking Sir Tafawa Balewa to form a cabinet, as Prime Minister. He said he would prefer to resign and had even prepared a statement to that effect.<sup>264</sup> There was an impasse, with all sorts of rumours, threats and accusations flying around. Dr. Azikiwe also received communications from the expatriate head of the army, Major-General Welby Everard, and an expatriate Justice of the Supreme Court, Sir Vahe Bairamian informing him that he was only a ceremonial Head of State and the Army.<sup>265</sup> This legal position which emphasized the figurehead position of the President who had no operational control or command over the Forces, was conveyed to the President on Sunday January 3, 1965 by Justices Sir Adetokunbo Ademola (Chief Justice of the Federation)<sup>266</sup> and Sir Louis Mbanefo (Chief Justice of the Eastern Region) and Mr. Don Ibekwe (Attorney-General of the Federation). They proffered a final solution to the stalemate which included the acceptance of the announced election results and a six-point proposal-Peace Accord<sup>267</sup>. The six-point proposal was<sup>268</sup>:

1. reaffirmation of the federal unity of Nigeria, with equal opportunities and no oppression;
2. strict observance of the constitution till it is properly amended;
3. a broad-based national government formed on the declared election results to avoid chaos;
4. detailed legality of the election to be determined by the courts and the constituency results upheld, except where the small turn-out had made an obvious mockery and common sense required a re-run;

<sup>264</sup> Daily Times January 3, 1965

<sup>265</sup> Alao, A. (2001). The Republican Constitution of 1963: The Supreme Court and Federalism in Nigeria, 10 U. *Miami International and Comparative Law Review* 91 (2001). Article 10, Volume 10. Available at: <https://repository.law.miami.edu/umiclr/vol10/iss2/10>

<sup>266</sup> Alao, A. (2001). The Republican Constitution of 1963: The Supreme Court and Federalism in Nigeria, 10 U. *Miami International and Comparative Law Review* 91 (2001). Article 10, Volume 10. Available at: <https://repository.law.miami.edu/umiclr/vol10/iss2/10>; see also Kurfi 2013

<sup>267</sup> Ibid p. 99

<sup>268</sup> Ibid



5. a one-year<sup>269</sup> eleven-man commission to be set up within six months, to review the constitution and electoral machinery with a view to a constituent assembly<sup>270</sup> (the President to nominate a member and the Prime Minister and Regional Premiers two each); and
6. the Western government to be dissolved to allow a free expression of regional electoral will<sup>271</sup>.

The results of the election should be upheld, with any disputes taken to court, unless the votes in a constituency were very small. In such cases, supplementary elections should be held.<sup>272</sup> It is important to point out here, that the six-point agenda agreed upon in resolving the constitutional impasse in the country following the 1964 Federal General Election was Nigeria's first attempt at electoral reform post-independence.<sup>273</sup>

In addition, the peace accord stated that Western Regional elections should take place to give the electorate a chance to decide who should rule them.<sup>274</sup> This was deemed necessary to have peace and democratic rule in the Western Region and the country at large. As things stood, S.L. Akintola had ruled the Western Region without a clear mandate since 1962, when he was asked to resign as Western Region Premier and Deputy leader of Action Group, his party at the time. This came about because Awolowo as party leader emerged as the Western Region Premier before independence, but decided to step down for Akintola, so that he could move to the centre as leader of the opposition in 1959. After the factional split from Awolowo's Action Group in 1962 due to personal, political and policy differences, Akintola's refusal to resign as Premier led to his impeachment process in May 1962.<sup>275</sup> A violent free-for-all fight in the Western Region House of Assembly ensued. The Federal Government claimed the whole Region was on fire and imposed a six-month state of emergency. With tacit support from the federal government, Akintola sat tight as Premier, and took the matter to the Supreme Court and won. At this

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<sup>269</sup>This would last for a year, to ascertain the wishes of the Nigerian People.

<sup>270</sup>The Constituent Assembly would be formed to take the final decision.

<sup>271</sup>The Western Region Government was dissolved and elections were held on September 11, 1965

<sup>272</sup>These and other Supplementary Elections were held on March 18, 1965 in the Eastern Region, the Mid-Western Region and parts of Lagos and the Western Region.

<sup>273</sup>Jinadu, A.L. (2012). Preface. *In Report of the Registration and Election Review Committee*. Abuja: INEC

<sup>274</sup>Ibid

<sup>275</sup>Kehinde, F. (2016). "Samuel Ladoke Akintola in the eyes of History" Vanguard January 30, 2016 <https://www.vanguardngr.com/2016/01/samuel-ladoke-akintola-in-the-eyes-of-history/>

time, the Akintola's faction of the AG has been reconstituted as the United People's Party (UPP), was the government of the day, and was closely aligned it with the ruling Northern People's Congress (NPC).<sup>276</sup> Shortly after in June, 1962, Awolowo and some leaders of the Action Group (AG) were indicted by the Coker Panel of Enquiry for irregular handling of regional institutions and funds from 1954 to 1962. Yet, Akintola, who had been Premier for two years of the period was not investigated. By September, of that year, Awolowo and many other Action Group leaders were jailed for treasonable felony. Akintola changed the Constitution of Western Nigeria, and then backdated it, to overturn the judgement upholding his removal by the Governor, Oba Adesoji Aderemi, that was obtained from the Privy Council in London by Alhaji D.S. Adegbenro, the new Action Group leader.<sup>277</sup>

This perceived and manifest dissatisfaction with the government by the people of the Western Region, was why it was deemed necessary to hold elections for the Western Regional House of Assembly on September 11, 1965. By then it was more than the statutory maximum of five years term. Under the 1963 Republican Constitution and Western Region Constitution, as Chairman of ECF the lot fell on Eyo Esua to chair the Western Region EMB.<sup>278</sup> However, control of staff and all the election apparatus was vested in the Western Region and only the Governor could cancel elections or declare results. Esua later chronicled the inherent pitfalls and sharp practices of the elections held under the Western Region Constitution, as well as his futile attempts to circumvent them in a letter to the Governor.<sup>279</sup>

Like its predecessor, this ECF and its Chairman, Eyo Esua, were also confronted with the challenge of conducting an election amidst heightened politicisation of ethnicity and the attendant existence of ethnic-based political parties.<sup>280</sup> Notwithstanding the eventual NCNC landslide victory, they found cause to complain before the 1964 Mid-Western

<sup>276</sup> Post, K. W. J. (1966). Notes of the Month. *The World Today* Vol 22(2), pp.43-49

<sup>277</sup> Adegbenro v. Akintola, 3 W.L.R. 12. (1963). See also Vanguard January 30, 2016, "Samuel Ladoke Akintola in the eyes of History" *op cit*

<sup>278</sup> Section 14(2)(a), The Constitution of Northern Nigeria 1963; Section 13(2)(a), The Constitution of Western Nigeria 1963; Section 13(2)(a), The Constitution of Eastern Nigeria 1963.

<sup>279</sup> Diamond, L. (1988). *Class, Ethnicity, and Democracy in Nigeria: The Failure of the First Republic*. London: The MacMillan Press, p. 286; Ojo, E. O. (2012). Leadership Crisis and Political Instability in Nigeria, 1964-1966: The Personalities, the Parties and the Policies. *Global Advanced Research Journal of History, Political Science and International Relation*, 1(1), 006-017.

<sup>280</sup> *op cit*

Regional House of Assembly rigging during the registration of candidates, and general preparations. The 1964 House of Representatives and 1965 supplementary elections were also replete with similar allegations of rigging, and the opposing UPGA was highly dissatisfied with the conduct of the elections and NNA's victory in both elections; even though UPGA eventually won all the seats in the Eastern Region.

This was followed by the September, 1965 Western Regional Elections where it has been narrated that the issues mirrored those faced by the Mid-Western Region EMB and ECF the national EMB whilst handling elections. Complaints and accusations from the opposition AG and NCNC were even more rife, this sparked horrific violence and killing before, during and after the elections were held. the Akintola-led NNDP won. The resultant crisis known as “*Operation Wetie*” made the Western Region ungovernable; there was a spillover effect of insecurity in other Regions, thus paving the way for Nigeria's first military coup.

## 5.5 Significant Contributions

This ECF made some significant contributions. First, the Commission conducted a delimitation exercise, which led to the reconfiguration of the 312 federal constituencies in terms of voter population based on the 1963 Census. This reconfiguration involved the incorporation of the increased population from the 1963 Census. Furthermore, the Commission also compiled a new register of voters that was used in the elections, political parties registered and polling booths constructed.<sup>281</sup> This was no small feat, given that Nigeria already had a population of almost 50 million by 1964.<sup>282</sup> Finally, the Commission conducted the 1964 elections, which due to problems spilt over into 1965. Although this election was not without its faults, the Commission can however be commended for undertaking the task of conducting the first federal elections in independent Nigeria.

<sup>281</sup> The Electoral Institute. *An Overview of Election Management Bodies (EMBs) in Nigeria 1958-2010*, op. cit.

<sup>282</sup> Data Commons. (n.d.) *Timelines: Nigeria*.

[https://datacommons.org/tools/timeline#&place=country/NGA&statsVar=Count\\_Person](https://datacommons.org/tools/timeline#&place=country/NGA&statsVar=Count_Person)

## 5.6 Challenges and Lessons

The second ECF largely faced the same challenges as the first ECF. First, the political parties were formed and operated along ethno-regional lines that were allowed to thrive, which further intensified ethno-regional tensions. Even in the Western Region where there was single indigenous majority ethnic group and a dominant ethnic-based party, a pugnacious split occurred between S.L. Akintola and Awolowo, each taking their followers with them. Just as in the 1959 Federal Elections, the political structure made it impossible for any party to win a federal election with an absolute majority. Hence, for the 1964 Federal Elections handled by the Esua-led ECF, two mega alliances were formed by Zik's NCNC and Saudana NPC to break the inability to form majority rule at the centre. The erstwhile strange bedfellows of NPC and NCNC found themselves leading the two opposing alliances of NNA and UPGA respectively. This situation paved the way for crises to brew, especially in the Western Region, following the NNA's serial and contentious victory in the 1964-5 Federal Election in which Akintola's NNNDP had allegedly massively rigged with encouragement from the ruling party at the centre.

Given the high level of ethnic diversity in the country, it would have been necessary to take steps to ensure the representation of different groups and allay fears of marginalisation. This could have been done in several ways including prohibiting parties from being formed around ethno-regional lines. However, the legacy colonial electoral laws neither gave the Commission nor the government power to control the formation of political parties as such. It might have been ignorance about how strong primordial feelings could be in Nigeria. Or, it might have been a colonial design that no party could get an absolute majority, to force the political parties to work together for the good of Nigeria. Whatever the case, it ended up favouring the ruling party, which would always get the largest number of seats due to having 50% allocated to its region, *ab initio*. Hence, political parties saw no need to change the *status quo* as it allowed them to remain perpetually in power, especially now that Akintola's NNNDP had teamed up with them.

Secondly, for the first time, the Commission recorded the resignation of three members – Anthony Aniagolu, Prince David Akenzua and Beniah Adelaja. This was probably the first time that people appointed to a position of authority would resign on account of an assault on morality and conscience, in this case over pre-election institutional rigging and

differences in standards of readiness for the elections<sup>283</sup>. The Commission lacked financial autonomy and seemed to lack knowledge about the electoral regulations and laws. Under the existing laws, the Chairman had the power to postpone elections under certain circumstances but failed to use them for whatever reason. Eyo Esua eventually became the second EMB Chairman to resign after Sir Kofo Abayomi. Eyo Esua did document some of the issues faced, albeit in the form of letters and press statements. He also proffered solutions, some of which appear to have been adopted by EMBs and governments much later in Nigeria's political history and democratic development. Eyo Esua also resigned on December 15, 1965 and was replaced by Michael Ani on December 16, 1965. Michael Ani was appointed by the President of the Senate and Acting President Dr. Nwafor Orizu with effect from December 16, 1965 but never got inaugurated before the military intervention of January 15, 1966. Dr Nwafor Orizu was Senate President, 1960–1966.

ECF II was a short electoral commission, existing for only two years: April 1964 - January 1966. However, it would seem there were many lessons to be learned from this period. Finally, this ECF was faced with the challenge of lack of gender inclusion within its composition, as the Commission was male dominated.

## **5.7 Conclusion**

The second ECF is significant for being the first EMB to be established in independent Nigeria. This is reflected in the fact that, unlike its predecessor, the ECF was headed by a Nigerian. The political structure of Nigeria and having a large major ethnic group dominant in each of the first three Regions encouraged the formation of ethnic-based political parties. Unfortunately, an intra-party conflict and power struggle in the Western Region, and ethno-regional crises in the country led to the untimely end of the Commission when Nigeria experienced its first military coup, which was unfortunately very bloody. Prime Minister, Abubakar Tafawa Balewa, Sir Ahmadu Bello, the Northern Region Premier, and Minister of Finance, Festus Okotie-Eboh, S.L. Akintola, the Western Region Premier along with some of their family members and staff, as well as several others too numerous to mention, were killed.

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<sup>283</sup> The only other recorded resignation from the EMBs since these resignations was that of Professor Eme Awa 1989 resignation as Chairman of NEC.

The EMB was not to blame for everything that went wrong with the electoral process. Some issues emanated from the political and administrative structure and were within the purview of the Federal Government to change. Breaking the regions into smaller units also would have helped to dismantle the large regional parties dominated by the largest ethnic group. By creating the Mid-Western Region, the Western Region was the only region that was reduced in geographical size and number of Seats in the House of Representatives. The Mid-Western ethnicities including Binis, Urhobos, Western Ijaws and Itshekiris, etc, now had their own Mid-Western Region, separate from the Yorubas of the Western Region. This is the only geopolitical unit ever to be carved out by a civilian government, perhaps an indication of how sensitive 'state' creation is.

Another major opportunity to create an atmosphere of inclusivity in the country would have been to fully implement the Ademola – Mbanefo six-point Peace Accord. The election and governance aspects were eventually done by the EMB and NPC Government of Tafawa Balewa. Nonetheless, it was equally important to look into the Constitution and electoral machinery to see what changes could be made. Regrettably, this was laid out as a 12-month program and it was overtaken by events such as the 1965 Western Region crisis and the first military coup. Still, this idea was eventually taken up by the Murtala Mohammed regime, when it set up its transitions programme, which included the creation of more States in 1975; the Constitution Drafting Committee; the Constituent Assembly; the formation of political parties that were not unnecessarily beguiled by ethnic and religious blinkers. There was also the adoption of the American-style presidential system of government that forces political programmes of the parties and membership to be national in outlook; with its corollary equally expressed in a constitution with a national outlook, which can also set Nigeria back on the road to civil and democratic rule.



# Federal Electoral Commission 1976-1983

Chapter

6

**A**fter more than 10 years of military rule (1966-1976), the Federal Electoral Commission (FEDECO) was established in 1976 by the General Obasanjo-led military government. This Government was considered an offshoot of his assassinated predecessor, General Murtala Muhammed. During Murtala Muhammed's short tenure, extensive groundwork had been done with regard to the transition to a civilian administration and particularly to the conduct of elections. Shortly after taking office in 1975, he reorganized local governments and set up a Constitution Drafting Committee (CDC) headed by Chief Rotimi Williams.<sup>284</sup> Furthermore, General Murtala Muhammed promised to hand over to civilians within four years and no later than October 1, 1979. The Obasanjo-led government worked assiduously towards that goal, especially after taking possession of the new Constitution in September, 1976.<sup>285</sup>

FEDECO had the task of conducting elections to usher in Nigeria's transition back to democratic rule after a three-year civil war (1967-1970) and multiple coups since 1966. The enabling decree and 1979 Constitution tried to correct some errors of the past, e.g. political parties had to be national in structure and outlook, rather than ethnic, regional or religious based. For the first time women in the North were eligible to vote under universal adult suffrage elections. The Westminster-style Parliament was scrapped. Although a more unitary system of government was put in place through a single Constitution, the political system was to be modelled after that of the United States and headed by an executive President and Cabinet with a bi-cameral federal legislature, i.e. a Senate and House of Representatives. The federating units' states were to be headed by Governors with a legislature known as a House of Assembly. The third Tier was the autonomous Local Governments. Thus, the EMB was required to handle several more

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<sup>284</sup> Egbule, P. O. (2019). Appraising the role of military governments towards nation building in Africa: a focus on Murtala-Obasanjo administration in Nigeria. *Journal of Nation-building & Policy Studies*, 3(1), 103-115.

<sup>285</sup> Ekeh, P. P. (1999). Obasanjo and the Burden of Civilianization. *African Issues*, 27(1), 73-76.



layers of elections than the single parliamentary federal style of its ill-fated forerunners. The fate of the country's stability was largely in the hands of FEDECO to ensure there was a transition from military to civilian rule. FEDECO successfully conducted the 1977 Constituent Assembly elections and the transition elections in 1979, it also handled the 1983 elections, albeit far less successfully.<sup>286</sup>

## 6.1 Establishing Statutory Instrument

FEDECO was established by the Federal Electoral Commission Decree No. 41 of 1977, which was deemed to have come into force in 1976.<sup>287</sup> Section 1(1) of the Decree states: “there shall be for Nigeria a body to be known as the Federal Electoral Commission”. Following the return to democratic rule in 1979, the EMB called FEDECO was legalised by section 140(1)(c) of the 1979 Constitution. Unlike in previous years, the electoral commission was referred to as a federal executive body in this Constitution. This is a trend that has been followed in subsequent years.

## 6.2 Powers and Functions

The powers and functions of FEDECO were stated in Section 3 of the 1977 Federal Electoral Commission Decree:

- 3 (1) The functions of the Commission shall be —
- (a) to organise and supervise all matters pertaining to elections into all the elective offices provided for in the Constitution and elections into any legislative body provided for in that Constitution 'other than local government bodies;
  - (b) to register political parties and determine their eligibility to sponsor candidates for any of the elections referred to in paragraph (a) above;
  - (c) to arrange for the annual examination and auditing of the funds and accounts of political parties; and
  - (d) to carry out such other functions as may be conferred on it by any law—

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<sup>286</sup> Hart, C. (1993). “The Nigerian Elections of 1983.” *Africa: Journal of the International African Institute* 63 (3): 397–418. <https://doi.org/10.2307/1161428>.

<sup>287</sup> Section 10(2), Federal Electoral Commission Decree 1977

- 3 (2) The functions of the Commission under paragraph (a) of subsection (1) above include—
- (a) the division, by reference to the 1963 Population Census, of the area of the Federation or, as the case may be, the area of a State, into such number of constituencies as may be prescribed by law for the purpose of election to be conducted by the Commission under this Decree; and
  - (b) the registration of voters, the preparation and maintenance of registers of voters for the purpose of any such elections.”<sup>288</sup>

The 1979 Constitution refined the mandate of FEDECO, empowering it to:

- organise, undertake and supervise all presidential, governorship and legislative elections in the country;
- arrange for the annual examination and auditing of the funds and accounts of political parties and publish reports on these for public information;
- arrange for the registration of voters and maintain and revise the voters' register; and
- ensure that the voters' register is prepared and maintained to facilitate its use for elections to the local government councils.<sup>289</sup>

Section 65 of the Constitution also empowered FEDECO to divide each state into five senatorial districts for purposes of elections to the Senate and divide the federation into 450 federal constituencies for purposes of elections to the House of Representatives.

The Electoral Decree No. 73 of 1977 expatiated on the functions provided in Section 3 of Decree No. 41 of 1977 with Section 4 clearly defining the independence of the Commission, stating: “In the discharge of its functions, the Commission shall not be subject to the direction or control of any other person or authority”. The Decree in Section 5 also debarred any member or past member of the Commission from standing for any elective office provided for in the Constitution”.<sup>290</sup> Curiously, this provision was omitted from the 1979 Constitution.

<sup>288</sup> Federal Electoral Commission Decree 1977

<sup>289</sup> Paragraph 6, Part 1 of the Third Schedule to the 1979 Constitution

<sup>290</sup> Federal Electoral Commission Decree 1977, Decree No 41, Sections 3 -5, page A208

### 6.3 Composition

FEDECO consisted of a chairman, one member from each state (19 at the time), and four other members, making a total of 24 members inclusive of the Chairman. This was a massive increase from the previous electoral commissions, which had just six members in total. It reflected the fact that the initial four regions in the country had been broken down into 19 states, providing for greater representation. Writing on the composition of FEDECO, Kurfi asserted thus:

The composition and functions of FEDECO established in 1976, though broadly similar to those of its counterparts of 1958, there were important differences brought about by the changes in the administrative and constitutional structure of the country. In 1958, there were three giant Regions together with the Southern Cameroons and the Lagos Federal Territory, and the membership of the Electoral Commission, which comprised a chairman and five other members reflected this structure, with the chairman representing the Federal Government. In 1976 there were nineteen State administrations and each one was represented by a member in FEDECO. The chairman and four additional members (all women) represented the Federal Government, an increase in representation and composition which was indicative of the power of the government at that level, as well as the importance of women in the scheme of things in Nigeria. The female members were drawn from Kaduna, Plateau, Ogun, and Anambra States which are fairly representative of the complex ethnic and religious structure of the country.<sup>291</sup> Another marked difference was having an 'Executive' Secretary, which implied the position had, but did not necessarily grant financial control as well.<sup>292</sup>

When FEDECO was established under the military government in 1976, members were appointed solely by the Supreme Military Council. However, the reconstituted FEDECO in 1980, which was under the purview of a democratic government, consisted of members appointed by the President subject to the confirmation of the Senate.

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<sup>291</sup> Kurfi, A. (1983). *The Nigerian general elections 1959 and 1973 and the aftermath*. Lagos: Macmillan Nigerian Publishers Ltd. p. 56

<sup>292</sup> Ibid

Furthermore, members could only be removed by two-thirds majority vote of the Senate on grounds of inability to discharge their duty (infirmity of body or mind) or misconduct. The Commission was not supposed to be subject to the direction or control of any other authority or persons.

At the formation of FEDECO in 1976, the Commission was headed by Chief Michael Okon Ani<sup>293</sup> (Cross River State) who was appointed on October 1st 1976, having been previously appointed but not inaugurated as Chairman of ECF II. Other members of the 1976 Commission were:

**Table 6.1: Members of FEDECO at Inception (1976)**

S/N	NAME	STATE	SEX	AGE	DOB
1	Chief Michael Okon Ani - Chairman, CFR	Cross River	Male	59	30/11/1917
2	Mr. I.A. Adedoyin	N/A	Male	N/A	N/A
3	Chief M.A Adegborioye	N/A	Male	N/A	N/A
4	Mr. J.B. Adewunmi	Kwara	Male	40	12/08/1936
5	Mr. J.I. Adzape	Benue	Male	44	NA/NA/1932
6	Mr. H. Agedah	Rivers	Male	47	24/07/1929
7	Chief J.B.C. Anyaegbuna	Anambra	Male	57	30/12/1919
8	Alhaji Umaru Audi	Niger	Male	49	NA/NA/1927
9	Alhaji Ibrahim Biu	Borno	Male	54	NA/NA/1922
10	Mr. E.C. Halim, OON	N/A	Male	N/A	N/A
11	Alhaji Abubakar Ibrahim	N/A	Male	N/A	NA/NA/1922
12	Alhaji M.B. Ibrahim	Plateau	Male	N/A	N/A
13	Mrs Hassu Iro Inko	Kaduna	Female	40	10/11/1936
14	Alhaji Garba Jabo	N/A	Male	N/A	N/A
15	Mr. Justice S.B. Kesiro	N/A	Male	N/A	N/A
16	Alhaji Isa	Mele	Male	N/A	N/A
17	Alh. Chief Alade Odunewu	Lagos	Male	49	20/11/1927
18	Mrs Ethel I. Onwu	Anambra <sup>294</sup>	Female	N/A	N/A

<sup>293</sup> Born November 30, 1917

<sup>294</sup> Present day Enugu State

19	Dr. J.I.J. Otuka	N/A	Male	N/A	N/A
20	Mrs Elizabeth A. Pam	Plateau	Female	41	09/07/1935
21	Alhaji Shehu Ringim	Kano	Male	46	NA/NA/1930
22	Alhaji Aminu Salihu, OON	N/A	Male	N/A	N/A
23	Surveyor. R.F. Uko	N/A	Male	N/A	N/A
24	Olori Yetunde Gbadebo	Ogun	Female	48	28/02/1928
	Alhaji Ahmadu Kurfi – Executive Secretary	Kaduna <sup>295</sup>	Male	45	NA/NA/1931

Alhaji Ahmadu Kurfi, from Kaduna, was the Executive Secretary.

When the Commission was re-constituted in 1980, the Chairman was Justice Victor Ovie-Whiskey (Bendel State<sup>296</sup>). Chief Ani was 59 years old at the time of joining FEDECO, while Justice Ovie-Whiskey was 57 when he joined the Commission. Members of the Ovie-Whiskey-led Commission were:

**Table 6.2: Members of the FEDECO as at 1983<sup>297</sup>**

S/N	NAME	STATE	SEX	AGE	DOB
1	Justice Victor Ovie-	Bendel <sup>298</sup>	Male	60	06/04/1923
2	Chief J.B.C. Anyaegbuna	Anambra	Male	64	30/12/1919
3	Brig. Gen. Ignatius Obeya (rtd.)	Benue	Male	N/A	N/A
4	Alhaji Mustapha Umara	Borno	Male	N/A	N/A
5	Surveyor R.F. Uko	N/A	Male	N/A	N/A
6	Mrs Hassu Iro Inko	Kaduna <sup>299</sup>	Female	47	10/11/1937
7	Alhaji Abubakar H. Girei	Gongola	Male	54	NA/NA/1929
8	Mrs Elizabeth A Pam	Plateau	Female	41 <sup>300</sup>	09/07/1935
9	Alhaji Aminu Salihu, OON	Kaduna	Male	N/A	N/A
10	Alhaji M. N. Gumel	Kano	Male	N/A	N/A

<sup>295</sup> Then Kaduna State before creation of Katsina State on September 23, 1987.

<sup>296</sup> Present day Delta State – South-South Region

<sup>297</sup> Federal Republic of Nigeria (1991). Report of the Judicial Commission of Inquiry into the Affairs of Federal Electoral Commission (FEDECO) 1979 – 83, page 278. Lagos: Federal Government Printer

<sup>298</sup> He is from Agbarho, present day Delta State

<sup>299</sup> She is from Kankia, present day Katsina State

<sup>300</sup> As of date of appointment in 1976

11	Alhaji A. Liman Umaru	Kwara	Male	N/A	N/A
12	Mrs F.R.A Thanni	N/A	Female	50	09/01/1933
13	Chief Z.O. Omololu	N/A	Male	N/A	N/A
14	Lt. Col. J.O. Ayo Ariyo (rtd.)	N/A	Male	N/A	N/A
15	Dr L.O. Aremu	Oyo	Male	N/A	N/A
16	Alh. Mustapha B. Ibrahim	Plateau	Male	N/A	N/A
17	Alhaji A. Garba Jabo	Sokoto	Male	N/A	N/A
18	Alhaji Zubairu Dambatta	Kano	Male	N/A	N/A
19	Mr. O.I. Afe	Bendel	Male	N/A	N/A
20	Mrs Ethel Onwu	Anambra	Female	N/A	N/A <sup>2</sup>
21	Alhaji Balarabe U. Audi	Niger	Male	56	NA/NA/1927
	Alhaji Gambo Gubio – Secretary	Borno	Male	43	14/ 02/1940

Alhaji Gambo Gubio<sup>301</sup> from Borno was the Executive Secretary.

Unlike in previous years, for the first time, there were women in the electoral commission. Although the rate of representation was still poor with just four women (16.7%) out of 24 members in the first FEDECO and again, four women (19.05%) out of 21 members in the second FEDECO, it was an improvement from the previous male-dominated commissions. It is pertinent to observe that this Commission was the first to admit persons with a military background as members, with the appointments of Brig. Gen. Ignatius Obeya (Rtd.) and Lt. Col G.O. Ayo Ariyo (Rtd.). it is also pertinent to state that the Executive Secretary was also the Chief Electoral Officer of the Federation<sup>302</sup> and the accounting officer of the Commission according to Article 8(3) of Federal Electoral Commission Decree 1977 (Decree No. 41).

#### 6.4 Managing the Electoral Process

FEDECO under the leadership of Chief Michael Ani conducted the 1976 zero party<sup>303</sup> local government council election following the local government reforms of 1976.<sup>304</sup>

<sup>301</sup> He later became a National Commissioner of INEC 1998 - 2003

<sup>302</sup> See FEDECO (1979). The General Elections 1979 Report by Federal Electoral Commission: Lagos: Federal Electoral Commission. Page 5. Decree 77

<sup>303</sup> Zero party elections generally refer to situations wherein elections are conducted on individual basis, rather than political party basis, due to the absence of political parties or political associations.

<sup>304</sup> The local government reform committee was chaired by Godwin Odenigwe

This was followed by the 1977 Constituent Assembly election which used the new local governments as electoral colleges; as per Schedules 1 and 2 of Decree 50 of 1977. Members were authorized for Election as per Section 3 (1) a to c and Section 3 (2) a-c and (3). Two hundred and thirty members including one Woman, Janet Akinrinade were elected to ratify the draft Constitution.

Then the 1979 elections ushered in Nigeria's first transition from military rule to democratic rule. After thirteen years of unbroken military rule (1966 -1979), there was a thirst for democracy amongst Nigerians. The election was highly successful and relatively peaceful. There was, however, a legal battle between presidential candidates, Chief Obafemi Awolowo and Alhaji Shehu Shagari, in the post-election period. This began following an election petition by Chief Obafemi Awolowo, which argued that the declaration of Alhaji Shehu Shagari as the winner of the election was invalid due to non-compliance with the provisions of Part II of the Electoral Decree, 1977 which required candidates to poll at least one-quarter of votes cast in each of at least two-thirds of all the States within the Federation (See Section 34(2)). After hearing the case, the tribunal upheld the election result. This verdict was also upheld by the Supreme Court. This decision was perceived by interlocutors as a case of compromise between law and political expediency,<sup>305</sup> which helped in the resolution of the issue and the transition to a new administration.

The reconstituted FEDECO conducted the 1983 elections under the leadership of Justice Ovie-Whiskey. However, these elections were marred by irregularities which were in part facilitated by FEDECO and exacerbated by the socio-political environment in which the Commission operates. The legal debacle of the previous presidential election appeared to cause a scramble to ensure it did not happen again as there was a similar legal provision for winning governorship elections in States. The elections became a do- or-die affair, especially in parts of the old Western Region. Following the election and the coup d'etat of 1984, the Buhari regime established a judicial commission of inquiry into the affairs of FEDECO. This commission was led by Justice Bolarinwa Babalakin. General Buhari was toppled by General Babangida before receiving the report. Thus, it may be

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<sup>305</sup> Adediran, M. O. 1982. Awolowo v. Shagari - A case of compromise between law and political expediency. *Journal of Indian Law Institute*. Vol 24, No. 1, pp. 41-56

said, that commissioning the Babalakin report itself was Buhari's effort to correct the electoral process in Nigeria and return Nigeria to democratic rule.

The Babalakin report pointed out major shortcomings and abuses of the 1983 elections. These included compilation of fictitious names on the voter's register, multiple registrations of voters, illegal printing of voters' cards and forms, illegal possession of ballot boxes and stuffing of ballot boxes with ballot papers, falsification of election results, deliberate refusal to supply election material, voting by under-aged children, harassment of candidates, agents or voters, and unauthorised announcement of results. Returning Officers became a law unto themselves, because FEDECO failed to supervise them as required by Section 24 of the Electoral Act 1982.<sup>306</sup> After the election, electoral offenders were recommended never to be appointed to any position where political neutrality is required.<sup>307</sup>

The electoral staff were also poorly trained; and they proved incompetent to handle the task of conducting elections, as there were blatant inaccuracies in the electoral lists it drew up.<sup>308</sup> Ultimately, the 1983 election conducted by FEDECO was flawed. This paved the way for another Nigeria military coup immediately preceded by a controversial election.

## 6.5 Significant Contributions

A significant contribution of FEDECO is that it conducted the first presidential election in Nigeria in 1979 which ended thirteen long years of military rule in the country. In the run-up to the election, the Commission delimited the country into electoral districts, conducted voter registration and registered five political parties, namely: the National Party of Nigeria (NPN); the Unity Party of Nigeria (UPN); the Peoples Redemption Party (PRP); the Great Nigeria Peoples Party (GNPP); and the Nigeria Peoples Party (NPP).<sup>309</sup>

<sup>306</sup> Report of the Judicial Commission of Inquiry into the Affairs of Federal Electoral Commission (FEDECO) 1979-1983: Main Report. (November 1986).

<sup>307</sup> Report of the Judicial Commission of Inquiry into the Affairs of Federal Electoral Commission (FEDECO) 1979-1983: Main Report. (November 1986).

<sup>308</sup> Wright, S. 1984. Nigeria: The 1983 Elections. *The Round Table*, 73:289, 69-75, <https://doi.org/10.1080/00358538408453620>

<sup>309</sup> Kurfi, A (2013). *Sixty Years Long March towards Democracy (Nigerian General Elections 1951 – 2011)*. Ibadan: Safari Books Limited, p. 29.



The reconstituted FEDECO in 1980 also registered a sixth party - the Nigeria Advance Party (NAP), before the 1983 elections.<sup>310</sup>

Another significant contribution of FEDECO to the Nigerian electoral process was the conduct of house-to-house voter registration exercise. This was a novel exercise at that time as prior voter registration exercises conducted ahead of the 1959 and 1963/64 elections, were done at registration centres. In explaining and justifying the adoption of house-to-house registration, former Secretary of FEDECO, Ahmadu Kurfi, noted as follows:

...Registration of voters for the 1979 elections took a different form from that of 1959 or 1964. The commission considered two methods of registration. namely creation of registration centres and a house-to-house enumeration. The former method which was adopted during the 1958 and 1964 registration exercises was considered inappropriate, partly because unlike in 1958 and 1964 when the political parties were operating, there were no organised bodies in 1978 to goad prospective voters to register. All political parties and tribal unions, etc, had been banned by the military government since January 1966 and remained so until September 1978 after the completion of the registration activity. Hence, the register had to be taken to people's homes to enable them to register at their convenience. Another reason considered was that house-to-house registration was the best method of obtaining a comprehensive, accurate and up-to-date register of voters after a lapse of fifteen to twenty years without such a register. Hence, this method of enumeration was embarked upon by the Federal Electoral Commission (FEDECO). The commission registered Nigerian citizens who were ordinarily resident in Nigeria and were not morally or mentally incapacitated. The exercise was conducted throughout the federation from 14 January to 28 February 1978.<sup>311</sup>

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<sup>310</sup> Ibid p.

<sup>311</sup> Kurfi, A. (2013). *Sixty Years Long March towards democracy (Nigerian General Elections 1951 – 2011)*. Ibadan: Safari Books Limited (2013), pp. 25 – 26.

In the absence of organized political bodies to spur the interest of voters towards participation in the voter registration exercise, the adoption of house-to-house voter registration marked a significant contribution, highlighting the ingenuity and adaptability of the Commission.

Another unique contribution of FEDECO was the screening of candidates deemed unqualified to hold public office following standards set by the Electoral Decree of 1977. The Decree forbade occupants of public office and Native Authority Employees from standing for elections. It also specified: (a) That candidate must have paid fully, as and when due, in respect of each of the three financial years preceding the date of elections income tax anywhere in the federation, (b) That a person sentenced to a term of imprisonment for an offence involving dishonesty within the last 15 years (since January 1966) was disqualified from standing as a candidate, and (c) That any person who has been removed from public office on any ground involving dishonesty (or dismissed from such office on any ground) was disqualified.<sup>312</sup> To ensure compliance with these rules, the Commission “compiled a “Dossier of Disqualified Nigerians” which named wrongdoers and listed their misdeeds. In line with provisions as specified in the Decree, the Commission conducted a screening of candidates to ensure that persons of dubious character did not find their way into public office.<sup>313</sup> Applying the provision 73(1)(9) ii of the Decree, FEDECO disqualified Odumegwu Ojukwu, leader of the Biafra Secessionist Agitation, from contesting for a seat in the Nigerian House of Representatives under the GNPP on grounds that he had hitherto been dismissed from office.<sup>314</sup>

In terms of gender inclusion, FEDECO did much better than the previous commissions, as it had four women out of 21 members. This was a significant change from the ECF I (often referred to as ECN) & II (often referred to as FEC) which were completely male dominated.

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<sup>312</sup> See Ahmadu Kurfi. *Sixty Years Long March towards Democracy (Nigerian General Elections 1951 – 2011)*. Ibadan: Safari Books Limited (2013), pp. 30 – 31.

<sup>313</sup> Ibid

<sup>314</sup> Kurfi, A. (1983). *The Nigerian General Elections 1959 and 1979 and the Aftermath*. Lagos: Macmillan Nigerian Publishers Ltd., pp. 109 – 110.

## 6.6 Challenges and Lessons

FEDECO faced many challenges, one of which was lack of financial independence. This, coupled with the fact that FEDECO members were appointed by the President, fuelled the perception that FEDECO facilitated Alhaji Shehu Shagari's re-election in 1983.

Related challenges were perceptions, and allegations levelled against the FEDECO of 1976 – 1980, of favouring the NPN. This, according to Kurfi, stemmed from how ballot papers were designed and produced. In his words:

The ballot paper for the 1979 Elections had printed on its obverse side the symbols of the registered political parties in the following order: GNPP, UPN, NPN, PRP, NPP with the national crest or the Nigerian Coat of Arms embossed in the middle, above one of the party symbols – which happened to be that of the NPN. This coincidence as well as the placing of NPN's symbol in the middle was criticised by the other parties after the results of the first election were announced. FEDECO was accused of favouring the NPN by placing its symbol at a “vantage position” which also made it appear to be the 'government party as the crest is associated with acts of government.<sup>315</sup>

Another challenge, which was pointed out by the Babalakin report, was that the Electoral Act 1982 came into effect barely twelve months to the 1983 election.<sup>316</sup> According to the report, the late passage of the Act meant that there was not enough time for adequate preparations, which partly accounted for some of the electoral malpractices during the election.

Internally, as noted by Eme Awa (1997), the electoral commission had serious structural problems. There was also friction between the Executive Secretary who was the accounting officer<sup>317</sup> of the Commission and the Chairman who was the Chief Electoral Commissioner<sup>318</sup> in relation to financial control of the Commission. Also, the executive

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<sup>315</sup> Kurfi, A. (2013). *Sixty Years Long March towards Democracy (Nigerian General Elections 1951 – 2011)*. Ibadan: Safari Books Limited (2013), pp. 53 – 54.

<sup>316</sup> *Report of the Judicial Commission of Inquiry into the Affairs of Federal Electoral Commission (FEDECO) 1979-1983: Main Report, op. cit.*

<sup>317</sup> Section 8(3) of Decree No. 41 of 1977

<sup>318</sup> Section 1(2) of Decree No. 41 of 1977

powers of the secretary enabled him to pre-empt the powers of the chairman.<sup>319</sup> The Commission was also unwieldy, with so many members providing divergent views and opinion on virtually all policy issues, thus, producing a 'cacophony' of policy positions.

It is worth noting that the 1979 Constitution did not empower the Executive Secretary to be the accounting officer, neither did the coming into force of this Constitution validate the power of the Executive Secretary as the accounting officer. This could explain why subsequent commissions dispensed with the title of Executive Secretary.

Under FEDECO, the 1979 to 1983 EMB, the Executive Secretary was also the Chief Electoral Officer of the Federation.<sup>320</sup> The responsibilities of the Executive Secretary included managing administrative affairs, coordinating election logistics, and ensuring the smooth conduct of elections. He was responsible for overseeing the technical aspects of elections. This role involved tasks such as voter registration, ballot preparation, and ensuring the integrity of the electoral process. As Chief Electoral Officer, the Executive Secretary also had the responsibility of announcing election results.

While the Executive Secretary performed the afore-stated roles, the Chairman had the responsibility of setting the strategic direction, representing the commission in public forums, and interacting with political parties, civil society, and the media. The excerpt below offers further insight on the powers of the Executive Secretary in relation to other members of the commission as well as the implication on Commissioners' perception of their role.

...the Electoral Act 1982 designated the commission's secretary as 'Executive Secretary and Chief Federal Electoral Officer', creating the impression that the secretary was the chief executive of FEDECO. The commissioners, therefore, saw him as the person responsible for the conduct of the elections. According to the Report of the Judicial Commission into the Activities of FEDECO (the Babalakin Report), the description of the secretary as the chief electoral officer of the federation 'create[d] the impression that some other authority [than FEDECO] had primary responsibility for the conduct of the elections and that the role of FEDECO

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<sup>320</sup> See FEDECO (1979). The General Elections 1979 Report by Federal Electoral Commission: Lagos: Federal Electoral Commission. Page 5

was limited to the supervision of this other authority. Indeed, virtually all the Electoral Commissioners who appeared before us took the view that they were not responsible for the conduct of the 1983 elections. Their role, they argued, was to 'oversee' and to 'supervise'.<sup>321</sup>

## 6.7 Conclusion

FEDECO is significant for conducting the elections that successfully ushered in Nigeria's first transition from military rule to democratic rule in 1979. Unfortunately, this commendation should be regarded as short-lived because democracy only lasted for one electoral cycle (1979 – 1983) before the return to military rule. Another area in which FEDECO can be commended is inclusion and representation, as it was the first national EMB in Nigeria to have women among its members.

It would seem breaking up the country into smaller geopolitical units and forcing political parties to be national in outlook did not entirely remove the challenges in electoral politics, as problems now manifested elsewhere. It was the poor performance of FEDECO during the 1983 Elections that led to the return of the military to power.

The Commission was scrapped following the military coup d'état of December 31, 1983, the second time an electoral commission would be so dissolved by military intervention since independence. This effectively marked the end of the Second Republic. The challenges faced by FEDECO in conducting the 1983 elections, as pointed out in the Babalakin report, did have far-reaching effects and have continued to serve as a reference point for efforts to improve the electoral process.

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<sup>321</sup> Fall, I. M., Hounkpe, M., Jinadu, A. L., & Kambale, P. (2011). Election Management Bodies in West Africa. *A Comparative Study of the Contribution of Electoral Commissions to the Strengthening of Democracy*. Johannesburg, Open Society Foundations. p. 119

# National Electoral Commission 1987-1993



**A**fter four years of military rule, the National Electoral Commission (NEC) was established in 1987. Like its predecessor, NEC was tasked with conducting elections to usher in Nigeria's transition back to democratic rule. NEC was faced with many challenges, the evidence of which lay in the fact that in the space of just six years, it was re-constituted up to three times before it was eventually dissolved.

## 7.1 Establishing Statutory Instrument

NEC was established by the National Electoral Commission Decree No. 23 of 1987<sup>322</sup> under the Babangida regime. Section 1(1) of the Decree states: “There shall be established for Nigeria a body to be known as the National Electoral Commission”. The design and structure of NEC and much of the electoral process and transition programme used by the NEC Commissions were drawn from the recommendations of the Political Bureau, a committee of 17 academics, chaired by Professor Samuel J. Cookey and commissioned by Babangida on January 13, 1986.<sup>323</sup> The forerunner body, known as the Committee of Eight because it was composed of eight (8) Federal Permanent Secretaries was commissioned on November 15, 1985 to 'study the issue of providing a political programme for the country and make appropriate recommendations’. But that Report which was submitted in March 1986 was not given prominence. In particular, the terms of reference of this Committee were:<sup>324</sup>

1. identify the factors that have militated against the development of a stable political culture

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<sup>322</sup> Transition to Civil Rule (Political Programme) Decree No. 19 of 1987 (as amended)

<sup>323</sup> The number was later reduced to 15, as one member resigned before the end of the assignment and another was fired for leaking confidential information to the press.

<sup>324</sup> Odinkalu, C.A. (2001). *The Management of Transition to Civil Rule by the Military in Nigeria (1966-1996)*. In Amuwo, K. Bach, D.C., & Lebeau, Y. *Nigeria during the Abacha Years (1993-1998)*. IFRA-Nigeria <https://books.openedition.org/ifra/634>

2. recommend guidelines for a future system of government
3. draw up a programme for return to civilian rule or any system of government agreed by the people
4. make recommendations on modalities for implementing the programme.

The Political Bureau (Politburo) was set up and assigned to create a blueprint for the system of government and elections based on the views of the people of Nigeria. The Political Bureau's terms of reference were:<sup>325</sup>

- a) Review Nigeria's political history and identify the basic problems which have led to our failure in the past and suggest ways of resolving and coping with these problems.
- b) Identify a basic philosophy of government which will determine goals and serve as a guide to the activities of governments.
- c) Collect relevant information and data for the Government as well as identify other political problems that may arise from the debate.
- d) Gather, collate and evaluate the contributions of Nigerians to the search for a viable political future and provide guidelines for the attainment of the consensus objective.
- e) Deliberate on other political problems as may be referred to it from time to time.

The Political Bureau broad responsibilities were:

- Investigating the problems of the failed Nigerian political and democratic institutions; and
- Collating the socio-political views of Nigerians and submitting remedies to curtail the perceived shortcomings of the political and economic process<sup>326</sup>

The Political Bureau conducted research, received memoranda from organizations and individuals from all walks of life. Furthermore, the Bureau held meetings and debates

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<sup>325</sup> *The Search for a New Political Order*, an address by General Ibrahim Babangida, President and Commander -in- Chief of the Armed Forces, Federal Republic of Nigeria, at the inauguration of the Political Bureau at Abuja, January 13, 1986. Report of the Political Bureau (1987), page 6

<sup>326</sup> Wright, S. (1998), Nigeria: Struggle for Stability and Status (Nations of the Modern World: Africa), Routledge, pp 83-85

whilst also touring the country extensively by visiting 301 local government areas. Their work also took cognisance of the Babalakin Report of 1985. And on March 27, 1987, the Political Bureau submitted a comprehensive final report to the government.<sup>327</sup>

The final report of the Political Bureau had minority and majority views, recommending a handover to civilians in 1990 and 1992 respectively. This report which became known as the Politburo Report, was further deliberated on by a Committee of Nine, consisting of six military personnel and three civilians that was headed by Major General Paul Omu. Their Report became the Transition to Civil Rule (Political Programme) Decree No. 19 of 1987. The Decree gave rise to a multiple-level, five-year programme, which would require a new constitution. Independent political parties were to be banned, leaving the Government to create two political parties, in line with the Political Bureau's recommendation. It also recommended an Open Balloting System (OBS). Finally, the inauguration of an elected civilian president would result in the military leaving office at the end of 1992, in line with the Political Bureau's Minority Report.<sup>328</sup>

The Establishing Decree of NEC was further amended by Decree No. 8 of 1989 which subsequently reconstituted the Commission giving rise to NEC II. NEC III came about after the June 12, 1993 annulment.

The 1989 Constitution<sup>329</sup> contained provisions to re-establish NEC. Although this Constitution never came into force due to the failure of the transition to a civil rule programme and the stay-on of military rule, it is nevertheless worth noting that Section 151(1)(h) of the 1989 Constitution also referred to NEC as a federal executive body, just as the 1979 Constitution had previously done.

## 7.2 Powers and Functions

The 1987 Decree gave NEC the power to:

- organise, conduct and supervise all elections

<sup>327</sup> Gana, J. (1987). "Preface". In *Report of the Political Bureau, March 1987*. Directorate for Social Mobilisation "MAMSER"

<sup>328</sup> Transition to Civil Rule (Political Programme) Decree No. 19 of 1987

<sup>329</sup> Constitution of the Federal Republic of Nigeria (Promulgation) Decree No. 12 of 1989 (as amended)



- provide clear guidelines, rules and regulations for the emergence, recognition and regulation of two political parties
- register two political parties and determine their eligibility to sponsor candidates for elections
- monitor political parties' organisation, conduct, campaign, and financing
- provide rules and regulations to govern political parties
- recommend to the Federal Military Government the amount of public funds required for the organisation and conduct of the affairs of the two parties
- arrange for the annual examination and auditing of political party funds and accounts
- provide rules to govern the qualifications to vote and be voted for during elections
- delimit the Federation or a state into such number of constituencies as may be prescribed by law for the purpose of conducting elections
- to register voters and prepare and maintain a voters' register.

The power to register parties was however withdrawn from NEC and given to the Armed Forces Ruling Council through an amendment to the 1987 Decree.<sup>331</sup>

### 7.3 Composition

NEC consisted of a chairman and nine other members. Out of these nine members, the 1987 Decree required that one must be a woman.<sup>332</sup> Members were appointed by the National Council of State on the nomination of the President.<sup>333</sup> Also, members could only be removed by the National Council of State. This in theory means the autonomy of NEC was properly protected given the nature of appointing and removing members.<sup>334</sup>

This was a change from the provisions under previous military regimes, where members were appointed solely by the Head of State. In the case of FEDECO, members were

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<sup>330</sup> Section 3, National Electoral Commission Decree 1987

<sup>331</sup> Odinkalu, C.A. (2001). *The Management of Transition to Civil Rule by the Military in Nigeria (1966-1996)*. In Amuwo, K. Bach, D.C., & Lebeau, Y. *Nigeria during the Abacha Years (1993-1998)*. IFRA-Nigeria <https://books.openedition.org/ifra/634>

<sup>332</sup> Section 1(2), National Electoral Commission Decree 1987

<sup>333</sup> Section 2(1), National Electoral Commission Decree 1987

<sup>334</sup> Awa, E.O. (1997). "Electoral Administration in the Early Transition". In Diamond, L.J., Kirk-Greene, A.H.M. and Oyediran, O. *Transition Without End: Nigeria Politics and Civil Society Under Babangida*.

nominated by the State Governments. According to the Babalakin Report,<sup>335</sup> this was a problem, as Members also saw themselves as representing the States. Since States are controlled by the political party in power, that's where their loyalty would lie, rather than to the Federal Government. It also caused infighting in FEDECO. Henceforth, such conflicts of interest were reduced starting with NEC. Interestingly, the Decree establishing NEC also set an upper age limit, barring persons above the age of seventy (70) from serving in the Commission.<sup>336</sup>

At the formation of NEC in 1987, the Commission was headed by Professor Eme Awa (Imo State, now Abia State), who was 66 years old at the time and a member of the defunct Political Bureau, which gave birth to NEC. Dr Umaru Sanda Ahmadu (Niger State) was the Executive Secretary. Members of the Commission were as follows:

**Table 7.1: Composition of the NEC at Inception (1987)**

S/N	NAME	STATE	SEX	AGE	DOB
1	Professor Eme Awa	Imo	Male	66	15/12/1921
2	Professor Adele Jinadu	Lagos	Male	44	30/11/1943
3	Ambassador Gabriel O. Ijewere	Bendel	Male	56	24/04/1931
4	Mrs. Eno Irukwu	Akwa Ibom/ Imo <sup>339</sup>	Female	N/A	N/A
5	Chief Christopher S Akande	Ondo	Male	60	28/12/1927
6	Dr. Ibrahim Kiyawa	Kano	Male	N/A	N/A
7	Chief Yunusa Oyeyemi	Kwara	Male	55	03/09/1932
8	Alhaji Ibrahim Sadiq Gambo	N/A	Male	N/A	N/A
9	Alhaji Garba Gomi <sup>340</sup>	Niger	Male	N/A	N/A
10	Dr Adamu Mohammed Fika	Borno	Male	45	NA/NA/1942
	Dr Umaru Sanda Ahamadu	Niger	Male	N/A	N/A

<sup>335</sup> *Report of the Judicial Commission of Inquiry into the Affairs of Federal Electoral Commission (FEDECO)*

<sup>336</sup> Ibid

<sup>337</sup> Professor Awa was born December 15, 1921 and died March 11, 2000.

<sup>338</sup> Bendel State as the time of his appointment, current Edo State which came into existence August 27, 1991 when the old Bendel State was split into Edo and Delta States by the IBB regime

<sup>339</sup> She is from Akwa Ibom while her husband is from the then Imo State. However, with the creation of Abia from Imo she would be said to be under Abia currently.

<sup>340</sup> Present day Yobe State

The Commission was dissolved in 1989, and reconstituted thereafter, with Professor Humphrey Nwosu (Anambra State), who was 48 years old at the time, as Chairman. Decree 23, 1987 establishing NEC stated that the Chairman should not be less than 50 years old had to be amended by Decree 8 of February 27, 1989, which lowered the minimum age for a chairman to 45. The setting up of NEC II followed on February 28, 1989. Although the Members and Executive Secretary, Alhaji Aliyu Umar were not sworn in until March 7, 1989. The Commission comprised:

**Table 7.2: Composition of the NEC as Reconstituted in 1989**

S/N	NAME	STATE	SEX	AGE	DOB
1	Professor Humphrey Nwosu	Anambra	Male	48	02/10/1941
2	Ambassador Ahmed Al-Gazali	Borno	Male	51	NA/NA/1938
3	Professor Adele Jinadu	Lagos	Male	46	30/11/1943
4	Chief Yunusa Oyeyemi	Kwara	Male	57	09/03/1932
5	Dr. Ibrahim Kiyawa	Kano	Male	N/A	N/A
6	Alhaji Hydara Aliyu	Sokoto	Male	N/A	N/A
7	Mrs. Eno Irukwu	Akwa Ibom/Imo	Female	N/A	N/A
8	Chief Sumner Dagogo-Jack <sup>341</sup>	Rivers	Male	59	20/05/1930
	Professor Felix Ideriah	Rivers	Male	N/A	N/A
9	Ambassador Mike T. Gbasha	Benue	Male	50	01/04/1939
	Alhaji Aliyu Umar – Executive Secretary	Niger	Male	N/A	NA

Following the annulment of the 1993 elections, NEC was again re-constituted in preparation for a fresh presidential election. NEC III was headed by Okon Edet Uya (Akwa Ibom), he was 46 years old at the time. Inauguration of the members took place July 10, 1993 and disbanded November 1993 when Abacha became Head of State. Alhaji Adamu Bawa Muazu (Niger State) was the Executive Secretary. The composition of the Commission was as follows:

<sup>341</sup> Chief Dagogo -Jack was appointed Deputy Governor of Rivers hence the replacement by Professor Felix Ideriah also from Rivers State. During this period, civilians were appointed as deputy to military governors of states.

**Table 7.3: Composition of the NEC  
Following the annulled June 12, 1993 Election**

S/N	NAME	STATE/ REGION	SEX	AGE	DOB
1	Professor Okon Edet Uya – Chairman	Akwa Ibom	Male	46	12/06/1947
2	Amb. Ahmed Al-Gazali	Borno	Male	55	NA/NA/1938
3	Chief Yunusa Oyeyemi	Kwara	Male	61	09/03/1932
4	Mr. Mike T Gbasha	Benue	Male	54	01/04/1939
5	Dr. Ibrahim A Kiyawa	Jigawa	Male	N/A	N/A
6	Prince Eddie Ugbodaga	Delta	Male	N/A	N/A
7	Dr. Rose Okoh	Cross River	Female	37	27/09/1956
8	Engr. S.E. Chukwujekwu	Anambra	Male	54	01/11/1939
9	Mrs. Remi Onakoya	Lagos	Female	N/A	N/A
	Alhaji Adamu Bawa Muazu – Secretary	Niger State	Male	43	NA/NA/1950

In the first two Commissions, there was only one woman which just meets the statutory requirement of having minimum one woman. In the third Commission, there were two women, including Dr. Rose Okoh who was a Federal Commissioner as well as the Director General, National Defence and Security Council.<sup>342</sup> Professor Uya, at age 46, was the youngest person to chair an electoral commission in Nigeria. Unfortunately, he only spent a few months in office before a military coup occurred and NEC was dissolved.

Later, Decree 19 of 1987 was amended by the AFRC. Decree 23 of 1989 removed the power of NEC to register political parties. Awa agreed to this to shield the Commission from party politics and possible litigation when registration was not successful.<sup>343</sup>

Nwosu being both a political scientist and a former Commissioner in Anambra State, appeared to also understand the need for EMB's independence and insulation from

<sup>342</sup> <https://www.manpower.com.ng/people/15562/rose-oko>

<sup>343</sup> Jinadu, L. A. (2004). Political Science, Elections and Democratic Transitions: Fragments of an Autobiography & Some Conjectures. Presidential Address delivered on 28 June, 2004 at the 23<sup>rd</sup> Annual Conference of the Nigerian Political Science Association (NPSA)

political interference. The legal process to make NEC a permanent body was initiated and was set in motion during Awa's tenure as Chairman. However, it was under the tenure of Nwosu as Chairman, that NEC became a scheduled organization under Decree 37, 1989 which amended Decree 23, of 1987. Thus, the EMB became a scheduled organization under the Public Service Act, which meant it could not be dissolved, even if the Chairman and members of the Commission were removed through a military coup. Commission appointees, such as National Commissioners, Residential Electoral Commissioners (RECs) and the Chairman could continue to come and go. However, staff, including the Directors and Electoral Officers were now permanent with pensionable jobs, rather than seconded from other government departments or employed for the duration of the EMB. They would no longer return to their government departments or become unemployed, particularly whenever the EMB was disbanded due to a change of government, especially through the military. Staff were now employed, promoted and disciplined by the Commission, thereby giving them a sense of loyalty to the EMB, as well as safeguarding some institutional memory.

Another administrative and structural change to the EMB during Nwosu's tenure included setting up of Legal Departments in each State HQ to handle legal matters efficiently and promptly, rather than overloading the HQ's legal department and staff having to travel long distances for court cases, etc.

Also, during his tenure, Nwosu ensured NEC built infrastructure including the present INEC HQ in Maitama, Abuja, and several State and Local Government HQ Offices, apart from not having to relocate ever so often, this would avoid the EMB being compromised by having to rent from partisan landlords.

#### **7.4 Managing the Electoral Process**

Four months after the initial inauguration of NEC, registration of voters commenced. Mobilisation of voters was done in collaboration with MAMSER (Mass Mobilization for Self-reliance, Social Justice and Economic Recovery), another agency that came out of Decree 19 of 1987 and formed part of the Political Bureau's transition process recommendations. The Commission projected registration of 55 million voters. However, at the end of the registration exercise 72 million Voters' Cards were issued and another five million people still turned up later, by which time NEC had run out of

Cards<sup>344</sup>. Awa himself concluded the voters' register was not reliable for various reasons such as multiple registration, registration of children and non-existent people<sup>345</sup>.

The Awa-led NEC still proceeded to conduct the 1987 local government elections using this register in the 5,024 wards and 380,000 polling centres. These elections were done on a non-party basis, using a complicated voting process. The Commission assigned strokes in the place of symbols to each candidate after arranging the names in alphabetical order. “For instance, G. Abba would get one stroke (/), Hajia C. Badru would get two strokes (//), Chief Gbolu would get seven strokes (////////), and so on”.<sup>346</sup> In addition to the complicated voting process, the elections were marred by violence logistical and security issues, which led to the elections being cancelled and re-conducted in 312 wards out of 5,024, including the entire Lagos State on March 26, 1988.<sup>347</sup>

In February 1989, at the behest of the Commission, legislation was passed to circumvent the expected plethora of injunctions and other litigation preventing elections being held. Decree 23 of 1987 was amended by Decree 8 of 1989; whereby, just two lines were inserted to ensure that elections would be sacrosanct and could not be stopped by any Court.

“(g) immediately after the existing subsection (2) of Section 5 thereof there shall be inserted the following new subsection (3):

“(3) Any decision reached by the President, Commander-in-Chief of the Armed Forces or the Armed Forces Ruling Council in accordance with this Decree, shall be final and binding and notwithstanding the provisions of the Constitution of the Federal Republic of Nigeria 1979, as-amended, no suit or legal-action-in-any court of law or tribunal shall lie against any person for any act done or intended to be done in pursuance of any decision of the President, Commander-in-Chief of the Armed Forces or the Armed Forces Ruling Council.”<sup>348</sup>

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<sup>344</sup> Awa, E.O. (1997). “Electoral Administration in the Early Transition”. In Diamond, L.J., Kirk-Greene, A.H.M. and Oyediran, O. *Transition Without End: Nigeria Politics and Civil Society Under Babangida*. Boulder: Lynne Rienner Publishers.

<sup>345</sup> Ibid, page 135-6. According to Awa, this was the view in NEC

<sup>346</sup> Ibid, page 137

The Electoral Institute. *An Overview of Election Management Bodies (EMBs) in Nigeria 1958-2010*, op. cit.

<sup>347</sup> Ibid

<sup>348</sup> National Election Commission (Amendment) Decree 8, 1989, page A52

The Nwosu-led NEC issued guidelines for the formation and registration of political associations and also for the conduct of elections. The Associations were expected to be whittled down to two, so they could metamorphose into the two integrative parties recommended by the Cooley-led Political Bureau of 1986 and enshrined in Decree 19 of 1987. The associations deposited truckloads of information at NEC HQ in Lagos. Beside Professor Nwosu, there were several academics in NEC, including Professors Jinadu, National Commissioner, Professor Tony Edoh (Director of Research and Statistics), heading a Research & Statistics Department made up of lecturers and researchers from some Nigerian universities. The Commission, which issued a document, *Guidelines for Registration as Political Party, and another one, Review of Applications by Political Associations: Reference and Instructional Manual for Resident Electoral Commissioners*, sent out researchers across the country, covering the federal, state, local government and ward levels, to verify the claims about party membership, party officials and office locations in the submissions of the political associations that applied for registration as political parties. None of the political associations satisfied the criteria for registration as political parties.<sup>349</sup>

Furthermore, the associations were suspected to be sponsored or infiltrated by 'old breed' politicians or moneybags, (many of whom were banned), and would eventually call the shots regarding nominations, etc., if the association became a political party. To counter this, the government asked NEC to create two parties for registration by the AFRC. This assignment included writing the manifestos and constitutions of what turned out to be the National Republican Convention (NRC) and the Social Democratic Party (SDP), synthesised from the constitutions submitted by the political associations, seeking registration as political parties. General Babangida made an announcement on December 4, 1989; justifying the policy measures taken, as follows:

“The draft Constitution of these parties as approved by the Armed Forces Ruling Council shall be identical. The National Electoral Commission shall submit (these) draft manifestos to the Armed Forces Ruling Council for preliminary approval within two weeks from today. The draft manifestos may be amended at the National Convention of each Party subject to NEC guidelines. They shall be

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<sup>349</sup> Conversation with Professor Adele Jinadu, November 5, 2022

sent to the Armed Forces Ruling Council, which shall approve the amendments, after which the draft becomes a manifesto.”<sup>350</sup>

As a further safeguard against 'moneybags' hijacking the parties, the SDP, ideologically “a little-to-the-left and the NRC, “a little-to-the-right,” were not only financed by the government, but their offices were also built for them by the government, as an investment in the development of democracy in the country,<sup>351</sup> with members free to join either of the two parties. Due to the long hiatus since the last democratic government ended in 1983 and the long period of military rule before that, the government felt the democratic process needed additional help. In October, 1989, the Centre for Democratic Studies (CDS) was launched by the government to produce a new breed of politicians. The Agency's mandate was to cultivate democracy by training party politicians and members, as well as train and co-ordinate Election Observers for the Presidential Primaries, the latter were made up of business interests, trade unions and civil society. They came to play a vital and key role in ensuring the integrity of the 1993 Presidential Election. The CDS worked closely with NEC whose responsibility it was to monitor the organization and conduct of the two parties.<sup>352</sup>

NEC II then conducted local government, governorship, State House of Assembly, and National Assembly elections between 1990 and 1992. The EMB started off using open balloting/Queuing system for the December 1990 Local Government and the December 1991 Governorship and State House of Assembly Elections. This was an innovative electoral measure. Voters would first line up to be counted and recorded. Each polling unit had a maximum limit of 500 registered voters, which provided another check. Then voters lined up behind a photo of the candidate of their choice. Feedback was received that open voting had caused domestic, extended family and community conflicts as well as retribution, because everyone knew who voted for whom. Subsequently, for the 1992 National Assembly Elections, the Modified Open Ballot (MOB) came into use. Accreditation would take place as in the Open Ballot method, thereafter, voters would vote using a secret ballot and the number of voters could not exceed those accredited.

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<sup>350</sup> General Ibrahim Babangida, Public Broadcast, Nnamdi Azikiwe Press Centre, Dodan Barracks. December 4, 1989

<sup>351</sup> Ayeni, O. O. (2019). Commodification of Politics: Party Funding and Electoral Contest in Nigeria. *SAGE Open*, 9(2), 1-8

<sup>352</sup> Decree 37, 1989, 1(d)



The presidential election which was intended to usher in Nigeria's transition back to democratic rule and herald the start of Nigeria's Third Republic was conducted on June 12, 1993 using Options A1-A8 which were the non-conventional methods for selection of party officials and party primaries. Using the Option A4 selection method, to get the party presidential nomination, candidates had to emerge from the grassroots, by firstly winning right from the ward to the national level.<sup>353</sup> This was combined with the Modified Open Ballot method of voting in the General Election.<sup>354</sup> However, if not for the foresight of NEC in obtaining protection from Decree 8, 1989, preventing the Courts stopping or interfering elections, the Presidential Election may never have even got started. Four days to the election, on June 8<sup>th</sup>, an NGO obtained a Federal High Court Order to prevent NEC from conducting that election, the Attorney General was joined in the suit.<sup>355</sup>

The NEC II also organised and conducted the 1993 elections so well that both local and international observers adjudged it to be free and fair. Indeed, the 1993 elections have been named one of the most credible elections in Nigeria's history<sup>356</sup>. Yet, the election results have never been officially released. Technology at that time enabled the Commission to collate the results and display them publicly on a large screen in Abuja as they were received. Interested persons, saw the results and could make their own tallies. At this time, Decree 13 of 1993 preventing Courts from halting the election was ignored, as a group of military officers prevented NEC from making further announcements of results based on an NGO having obtained an ex-parte order from Justice Saleh, the Chief Judge of the Federal High Court, Abuja, which was served on Nwosu. It said that NEC should cease further announcement of the results. Notwithstanding, civil society and other observer groups were also able to finish making their own tallies because of the Modified Open Ballot and the bottom-up collation system. Results were compiled first at the wards, followed by at the local government, and then the states. Thus, before the result

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<sup>353</sup> Campbell, I. (1994). Nigeria's Failed Transition: The 1993 Presidential Election. *Journal of Contemporary African Studies*, 12(2), 179-199.

<sup>354</sup> Nwosu, H. N. (2017). *Laying the Foundation for Nigeria's Democracy: My Account of the June 12, 1993 Presidential Election and its Annulment*. Page Publishing Inc.

<sup>355</sup> Ajani, J. (2023). June 12 Annulment: Shocking revelations! Vanguard June 12. <https://www.vanguardngr.com/2023/06/june-12-annulment-shocking-revelations/>

<sup>356</sup> Sowande, L. (2022). The Significance of June 12 1993 Presidential Election in Nigeria's Political History. Voice of Nigeria, June 12. <https://von.gov.ng/the-significance-of-june-12-1993-presidential-election-in-nigerias-politicalhistory/#:~:text=Compared%20to%20previous%20elections%20which.history%20of%20elections%20in%20Nigeria>

got to the NEC HQ, those following at the state level knew their results. With the cessation of announcement, uproar followed, with the international community trying to put pressure on the Federal Government; civil society threatening to release their own set of results; and eminent Nigerians and the press criticising the government. Protests and strikes also ensued.

Thereafter, different groups went to different courts, including Lagos and Benin, to get orders that NEC must finish announcing the results. There was judicial chaos. NEC did not give up either, they went to the Appeal Court in Kaduna seeking a means to allow them to finish announcing the results and put a stop to the flood of Court orders for and against completion of the electoral process. In the course of filing the appeal case, on June 23, 1993, the military regime of President Babangida dissolved the Nwosu-led NEC and annulled the election and suspended Decree 13, 1989, as well as other relevant election related Decrees.

This sparked off a series of protests which led to the Babangida regime stepping aside on August 26, 1993 and an Interim National Government (ING), led by Chief Ernest Shonekan, was formed. Before then, on July 10, 1993 a new Commission led by Professor (Ambassador) Okon Uya was selected by President Babangida to continue and complete the presidential election process. Four Commissioners were reappointed.

This Commission planned to conduct fresh presidential elections thanks to the institutional memory of the now permanent NEC. Under Uya a timeline of activities for the new election was quickly rolled out, but this met with strong indignation<sup>357</sup> and further protests by activists and the general population. The plan failed due to the political instability that was brought about by the annulment of the June 12 election. Following the alleged resignation of Ernest Shonekan, the head of the ING and the emergence of General Sani Abacha on November 17, 1993, in what was effectively another coup d'etat, Nigeria returned to full military rule and NEC and other democratic bodies were dissolved and/or suspended. Uya led-NEC is the shortest ever electoral commission in the electoral history of Nigeria, existing only for few months, July – November 1993.

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<sup>357</sup> Interview/Debrief of Okechukwu Ndeche, a Researcher on the project.

## 7.5 Significant Contributions

The Awa-led NEC conducted voter registration in preparation for zero-party election into local government councils, albeit with an unreliable outcome. Guidelines were produced for registration officers and voters. Though the elections were held on December 12, 1987, the elections in the whole of Lagos State and certain the local government councils of other States were repeated on March 26, 1988. NEC also conducted the 1988 Constituent Assembly elections using the existing local government councils as electoral colleges.<sup>358</sup> Out of 567 members, 450 were elected, the remaining 117 were appointed.

The Nwosu-led NEC promptly released guidelines on party formation just two days after the government lifted the ban on politics in May 1989.<sup>359</sup> It then revised the voters' register and verified the claims of membership of 13 political associations that applied for registration as one of the two integrative political parties. These associations include People's Front of Nigeria (PFN), Nigeria Peoples Welfare Party (NPWP), Nigerian National Congress (NNC), Peoples Solidarity Party (PSP), Nigeria Labour Party (NLP), The Republican Party of Nigeria (RPN), National Union Party (NUP), Liberal Convention (LC), Patriotic Nigerians Party (PNP), Ideal Peoples Party (IPP), All Nigeria Peoples Party (ANPP), Peoples Patriotic Party (PPP), and United Nigeria Democratic Party (UNDP).<sup>360</sup> All the Associations were found wanting. As a result, NEC produced the party blueprints, including the draft manifestos and constitutions for what eventually became the National Republican Convention (NRC) and the Social Democratic Party (SDP) to the Armed Forces Ruling Council (AFRC) for approval. SDP was described “a little to the left”, and the NRC “a little to the right,” as pointed out earlier.

The Nwosu-led NEC conducted the December 7, 1990 local government council elections on a no party basis and the December 14, 1991 governorship and House of Assembly elections using Open Ballot System (OBS). While the 1992 National Assembly election were conducted using the Modified Open Ballot System (MOBS) for the first time.

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<sup>358</sup> Interview/Debrief with of Okechukwu Ndeche, Odinkalu, C. (2013). *The Management of Transition to Civil Rule by the Military in Nigeria (1966-1996)*. In Amuwo, K., Bach, D.C. and Lebeau, Y. *Nigeria during the Abacha Years (1993-1998)*. P 57 -99, IFRA. Retrieved from <https://books.openedition.org/ifra/634>

<sup>359</sup> Ibid

<sup>360</sup> National Electoral Commission (1989). *Report and Recommendations on Party Registration*.

One significant contribution of the Commission was that it introduced what was tagged as the Option A4 model of voting to select party flag bearers in the presidential primaries ahead of the 1993 election. It also introduced the Open Ballot System (OBS) during which the candidates or their pictures were displayed, and voters queued behind their preferred candidate. This made it easier for observers to know the results of the election in a polling unit even before counting was done. However, due to complaints about people knowing those who voted for whom; they switched to the Modified Open Ballot System (MOBS) for the National Assembly Election. MOBS was legalised by Decree 13, 1993 and adopted for the widely acclaimed June 1993, Presidential Election. This combined with Option A4 used in the primaries contributed to the high level of transparency and credibility, in addition to, easy and fast collation in the June 12 Election.

Administrative and structural changes to the EMB during Nwosu's tenure included having a Legal Officer on hand in each state to consult with and handle cases when needed. Since most election matters relate to the law. This reduced the need for travel to and from HQ and meant legal issues were handled more expeditiously.

Another structural change in 1989, which was made possible by Decree 13 was turning the EMB into a scheduled organization with permanent staff, ensuring their loyalty and the preservation of institutional memory. The EMB could also build and own assets such as office buildings. This is what enabled NEC III under Uya to quickly roll-out an election plan.

Without the farsightedness and doggedness of the Commission in pursuing and covering legal options, many of the elections may never have taken place. Decree 8 of 1989, was a masterstroke initiated by NEC that enabled the electoral process to go on largely unfettered. The provisions stopping Court interference in Decree 8 of 1989 were incorporated into Decree 13 of 1993, the latter was what allowed the June 12<sup>th</sup> Presidential Elections to take place despite a Court Order to the contrary. Sadly, it was not sufficient to ensure the election was completed.

Other significant contribution of the Nwosu-led NEC, as discussed in the section detailing the major achievements of his leadership of NEC in his memoir<sup>361</sup> were as follows:

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<sup>361</sup> Nwosu, N. H. (2008). *Laying the Foundation for Nigeria's Democracy*. Lagos: Macmillan Nigeria Publishers Limited

- Securing loyalty of NEC staff by enhancing career prospects of NEC permanent staff, and improving accommodation for staff.
- Building of adequate office accommodation and facilities
- Improved in-house communication through the establishment of a comprehensive communication network to facilitate quick and effective contacts between all states and the FCT, especially during election period.

There was also the introduction of major electoral reforms between 1989 and 1993 including – the “Open Ballot”, “Modified Open Ballot System” – and the Option A4.<sup>362</sup> NEC also supervised the operations of two statutory parastatal-like ideological political parties which it created. They were registered by the AFRC and known as the National Republican Convention (NRC- right-wing leaning), and the Social Democratic Party (SDP – left-wing leaning). To an extent these moves kept some unscrupulous politicians in check and made things easier for the EMB. Although the presidential primaries had to be cancelled twice due to allegations of bribery and corruption. Furthermore, Caretaker Chairpersons had to be appointed, in the persons of Alhaja Lateefat Okunnu and AVM Ishaya Shekari (Rtd.) for NRC and SDP respectively. The Presidential Election was shifted from November 1992 to June 1993. The successful political party primary elections held between December 1992 and February 1993 and were innovatively redesigned to be a series of congresses, ending with a National Convention.<sup>363</sup> This was intended to thwart city-based politicians who never visited their hometown.

## 7.6 Challenges and Lessons

One major challenge faced by NEC was lack of independence. This was reflected in the fact that the Federal Military Government (FMG) established a parallel organisation called 'The Transition to Civil Rule Committee'<sup>364</sup> comprising military and civilian members to drive the transition programme contained in Transition to Civil Rule (Political Programme) Decree No.19 of 1987. The existence of this parallel body before the establishment of NEC meant that the latter was already in troubled waters *ab initio*. It

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<sup>362</sup> Ibid, pp,92- 131

<sup>363</sup> Campbell, I. (1994). Nigeria's Failed Transition: The 1993 Presidential Election. *Journal of Contemporary African Studies*, 12(2), 179–199.

<sup>364</sup> See Decree No 19 of 1987 (as amended) Transition to Civil Rule Political Programme

was constantly in conflict with the Commission's policies and programmes. During Professor Awa's tenure, the power to register parties was removed from NEC and given to the 'transition to civil rule committee'. Awa felt it relieved the Commission from pressure and possible litigation that could disrupt the election process. This view is similar to the recommendation made more recently by the Uwais ERC of 2008 and the views of many election researchers, whereby certain functions of the EMB should be hived off to allow it to concentrate on elections.

The Awa-led NEC was particularly challenged by internal divisions over practices and procedures. Commissioners, saw themselves as representing their state and sectional interests. This is evident in the fact that, as Awa himself noted, the Commission was “publicly blamed for management lapses, especially its inability to resolve its own internal conflicts.”<sup>365</sup> The excerpt below further points to the internal discord within the commission.

Because NEC had to purchase huge quantities of materials for the elections, it set up a committee from within itself to determine the quantities needed and where these materials could be purchased at cost-effective rates. The committee's report was approved unanimously in my absence. Yet a section of the press was informed, **deliberately by an NEC insider**, that some of the items needed had been over invoiced by the chairman.<sup>366</sup>

While the sectional dimension is not clear from the preceding quote, there is a clear element of internal division over practices and procedures intricately knitted in it. Awa further asserted that his experience with NEC reflects “the steady weakening among the upper classes of principled, civic orientations, with a consequent strengthening of ethnic/religious interests.”<sup>367</sup> The excerpt below further explains the drive behind sectional interests and simultaneously supports the view that commissioners represented their ethno-religious groups.

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<sup>365</sup> Awa, E. (1997). Electoral administration in the early transition. In L. Diamond, Kirk-Greene and O. Oyediran (Eds). *Transition without End: Nigerian Politics and Civil Society under Babangida*. Colorado: Lynne Rienner Publishers, Inc. p. 130

<sup>366</sup> Nwosu, N. H. (2008). *Laying the Foundation for Nigeria's Democracy*. Lagos: Macmillan Nigeria Publishers Limited, p. 136

<sup>367</sup> Awa (1997), p. 142

NEC is an important instrument of the state apparatus, and it was in a position to disburse more than 5 billion naira in a mere five years. Many Nigerians assumed that the chairmanship of a particular commission would give an automatic financial advantage to the members of his respective ethnic/religious group. There was also the problem of displaced aggression involved in this particular situation: attack and replace the particular chairman because he represents an ethnic/religious group that possesses only minor political clout.<sup>368</sup>

Although only parties created by the government – SDP and NRC – were allowed to contest the elections,<sup>369</sup> this streamlining could well have made life easier for the EMB, since the Nwosu-led NEC gave birth to the two Parties by creating their manifestoes and constitutions. The grassroot structure enabled people to join at ward levels. It, thus, ensured they were built from the bottom up. Furthermore, there were only two political parties and two primaries to supervise as well as only two sets of votes to count. Therefore, the workload was reduced.

On inception in 1989, the Nwosu-led NEC was particularly confronted by internal challenges, which included low morale among staff, and a complete absence of communication facilities between headquarters and field offices. These challenges necessitated the adoption of measures to improve staff welfare and commitment as well as improvement of communication channels between field offices and the headquarters.<sup>370</sup>

NEC's lack of independence was further reflected in the military government's undue interference in the 1993 elections. Despite the Commission's commendable efforts to organise credible elections, the gains were not felt because the military government annulled the elections and prevented what should have been another transition to democratic rule.

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<sup>368</sup> Ibid

<sup>369</sup> Campbell, I. (1994). Nigeria's Failed Transition: The 1993 Presidential Election. *Journal of Contemporary African Studies*, 12(2), 179–199.

<sup>370</sup> Nwosu, N. H. (2008). *Laying the Foundation for Nigeria's Democracy*. Lagos: Macmillan Nigeria Publishers Limited page 94

Awa led-NEC also suffered specific State Government interferences. For instance, during Eme Awa NEC, the Lagos State government made adjustments to some electoral ward boundaries after the registration exercise and before the elections, without informing NEC. The government was trying to correct problems of gerrymandering that had characterized the constituency system for some time and to provide wards for new residential areas. Nevertheless, the officials should have informed NEC of these adjustments.<sup>371</sup>

There were also riots, voter registration in wrong locations, and demands for Local Government Chairmanship position by indigenous communities. For instance, there was the demand of "indigenous communities in urban centres" to be given the chance to produce the chairman of the council or a majority of the councillors, even though this indigenous group had come to represent only a small fraction of the total population of the area. This demand was made in parts of Lagos, in Onitsha, and in Aba, where the indigenes threatened to murder the chairman of the council if he did not turn out to be an indigene.<sup>372</sup>

A major lesson to be learned from NEC is that much of the success came from inputs from seasoned academics. One of the most successful EMBs, NEC II, was headed by an academic Professor and there were academics, such as Professor Adele Jinadu, Professor Felix Ideriah who were National Commissioners, and Professor Tony Edoh, Director of Research and Statistics. For instance, the Commission set up a committee which had as members Professor Adele Jinadu, Ambassador Al Ghazali, Eno Irukwu, among others, which came up with the Option A4 for the next round of primaries after the cancelled August/September 1992 presidential party primaries<sup>373</sup>. Option A4 was adopted as a means of ensuring that candidates could emerge from the grassroots, making zoning and rotation unnecessary because of the level playing field. Also, it was the academics in the Political Bureau that gave NEC a solid blueprint to use and it was largely implemented to the letter, including the setting up of two integrated parties and the Open Ballot System.

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<sup>371</sup> Awa, E. (1997). Electoral Administration in the Early Transition. In L. Diamond, Kirk-Greene and O. Oyediran (Eds). *Transition without End: Nigerian Politics and Civil Society under Babangida*. Op cit

<sup>372</sup> Ibid

<sup>373</sup> WhatsApp chat with Professor Adele Jinadu, April 23, 2024



It must also be mentioned that the invitation extended to the Nigerian Political Science Association (NPSA), led to the appointment from September 1992 to March 1993, of Drs. (as they were then) Nuhu Yaqub of the Usman Danfodiyo University, Sokoto; and Browne Onuoha of the University of Lagos as Secretaries of the Interim National Caretaker Committees (INCCs) of the Social Democratic Party (SDP) and National Republican Convention (NRC), when the leadership of Ambassador Babagana Kingibe and Arc. Tom Ikime was terminated and the INCCs were set up, to facilitate the transition process. Their roles in the commendable interventions of the INCCs equally enhanced the development of the template that led to the huge success of the voting mechanisms – the Option A4 and the Modified Open Ballot System (MOBS) – that have found favourable commentaries in the literature on the Presidential Elections of 1993.<sup>374</sup>

Other scholars who should also be acknowledged include Professor Jerry Gana who headed Directorate for Social Mobilisation aka Mass Mobilization for Self-Reliance, Social Justice, and Economic Recovery (MAMSER)<sup>375</sup> and worked with other Professors, particularly, Professor Elo Amucheazi. It is widely accepted that MAMSER, a key recommendation of the Political Bureau as an exercise in political orientation in Nigeria, did an excellent job of voter mobilisation and sensitisation. Professor Awa, did not believe the EMB should do much more than focus on the elections, leaving party registration to others. The Professor Omo Omoruyi led Centre for Democratic Studies (CDS) was created to groom politicians, political parties and election observers. The Political Bureau, MAMSER and CDS were an integral part of the 1993 Presidential Election success story. This demonstrates the maxim advocated by The Electoral Hub that the success of any election is a collective responsibility<sup>376</sup>. This is further supported by the position of the National Institute for Policy and Strategic Studies that:

A consideration of the institutional framework of the forthcoming elections inevitably entails a thorough appraisal of the agencies which assume responsibility in the preparation and conduct of elections in the country including that of the constitutional provisions and the enabling electoral act

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<sup>374</sup> Conversation with Professor Nuhu Yaqub, April 23, 2024

<sup>375</sup> This is the predecessor of the National Orientation Agency - NOA

<sup>376</sup> See The Electoral Hub (2023). Electoral Accountability Matters! An Analysis of Nigeria's 2023 General Election. <https://electoralhub.org/publications/post-election-analysis/the-electoral-hub-2023-general-election-analysis/>

which govern the conduct of elections. At the centre of the institutional framework are four major agencies, namely, the FEDECO, the Police, the Political Parties, and the Judiciary.<sup>377</sup>

In simple terms, it can be said then that the EMB may do well to work more closely with critical stakeholders such as political parties, political parties, the judiciary, intellectuals and academics, civil society organisations, the media, security agencies, and other relevant government agencies.

Finally, NEC III was affected by the general political instability under which it operated. After the annulment of the 1993 Presidential Election, followed by the inauguration of the unelected quasi civilian-led Interim National Government of Ernest Shonekan, the Uya-led NEC had limited chances of effectively conducting another election in such a politically tensed atmosphere. It is therefore no surprise that the Commission was disbanded only a few months after it was established, due to Nigeria returning to full military rule.

## **7.7 Conclusion**

NEC made a number of significant contributions to the electoral process, notably the introduction of the Option A4 system of selecting presidential flag bearers and MOBS which monumentally improved the credibility of the 1993 elections. Unfortunately, the elections were annulled due to the squabbles that both involved the military top brass and the members of the political class – with the latter not willing to unite to chase away the former from undemocratic control of power. Nigeria returned to military rule shortly after, and the Option A4 system was never used again for political primary elections, nor Open Balloting for real elections. While no clear reason has been provided by relevant authorities for jettisoning the A4 system of primaries or the Open Balloting System, it is possible that the level of transparency in voting was either considered dangerous in some political and/or policy quarters; or it was perceived as a potential depressant on voter

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<sup>377</sup> NIPSS (1983) Roundtable Meeting on the 1983 General Election

turnout as electorates could be dissuaded from voting due to potential threats that might arise from public knowledge of their electoral choice. Nevertheless, NEC, of the period, was reputed to have conducted one of the most credible elections in Nigeria's history despite the difficult context in which it operated for about seven years.

Furthermore, NEC provided some insights into the ways to go about conducting successful elections for subsequent electoral commissions that have so far been building on the laid-down foundation. This includes the legacy of accreditation, which INEC bought into and used again in 2015 through the use of the Smart Card Reader that has continued ever since, albeit through improved current technology of Bimodal Voter Accreditation System (BVAS) that allows for collapsed accreditation and voting, result upload to the INEC Result Viewing portal (IReV), as well as allowing for real-time transmission of results and election statistics.

Taking away the registration and supervision of political parties from NEC, enabled it to succeed by focusing more on the core activities of elections. This is something to take note of; indeed, this point was also recommended by the Uwais-led ERC Report and the Jinadu-led Registration and Election Review Committee (RERC) Report.<sup>378</sup>

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<sup>378</sup> The RERC was an independent review body that conducted an audit of the two major activities of INEC in 2011, namely: the nation-wide registration of voters and the general election. The Committee was chaired by Professor Adele Jinadu. The comprehensive report commonly known as RERC Report was submitted to INEC Chairman, Professor Attahiru Jega on January 5, 2012.

# National Electoral Commission of Nigeria 1995-1998

Chapter



**T**he National Electoral Commission of Nigeria (NECON) was initially set up by the Abacha regime in December 1995 without a legal backing. NECON's primary task was to conduct elections to usher in Nigeria's transition to democracy, after the failed attempt in 1993. Like its predecessor, NECON was unable to fulfil this mandate.

## 8.1 Establishing Statutory Instrument

NECON was established in January 1996 by the National Electoral Commission of Nigeria (Establishment, etc.) Decree No. 3 of 1996 under the Abacha regime, although the Commission was inaugurated at the end of the previous year.<sup>379</sup> Section 1(1) of the Decree states: “There is hereby established a body to be known as the National Electoral Commission of Nigeria”. Unlike in previous years, the 1996 Decree established the Commission as a body, corporate with perpetual succession, which may sue and be sued in its corporate name.<sup>380</sup> It was established purposefully to undertake the conduct of electoral processes under the Transition to Civil Rule (Political Programme) Decree No. 1 of 1996 and pursuant to Decree 107 of 1993 (Constitution (Suspension and Modification) Decree<sup>381</sup>).

NECON was meant to be re-established by a democratic Constitution following the 1995 Constitutional Conference and conduct of the transition elections. However, this never happened as NECON was dissolved after the demise of General Abacha on June 8, 1998, before the Commission could conduct the elections.

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<sup>379</sup> Just like FEDECO establishment Decree of 1977 while the Commission was already in existence since 1976

<sup>380</sup> Section 2, National Electoral Commission of Nigeria (Establishment, etc.) Decree 1996

<sup>381</sup> Abacha's Regime Constitution

## 8.2 Powers and Functions

The 1996 Decree<sup>382</sup> empowered NECON to:

- ✦ organise, conduct and supervise all elections;
- ✦ register political parties;
- ✦ determine the eligibility of political parties to sponsor candidates for elections;
- ✦ monitor the organisation and conduct of political parties;
- ✦ determine the number of registration centres for each ward of the Federation;
- ✦ provide guidelines to political parties stipulating the rules and procedure for electioneering campaigns;
- ✦ specify the mechanism for fundraising and other sources of financing for political parties;
- ✦ arrange for the annual examination and auditing of political party funds and accounts;
- ✦ provide rules to govern the qualifications to vote and be voted for in elections;
- ✦ delimit the Federation or States into such number of constituencies as may be prescribed by law for the purpose of conducting elections;
- ✦ register voters and prepare and maintain a voters' register.

## 8.3 Composition

NECON consisted of a chairman and seven other members. Members were appointed solely by the Head of State. The Chairman of NECON was Chief Sumner Dagogo-Jack, from Rivers State, who was 65 years old at his time of joining the Commission. The structure differed from previous Commissions, as there was no Secretary. Instead, a Director General in person of Alhaji Mohammad Ali from Borno State was appointed. Alhaji Mohammad Ali was also the Director of Personnel and the most senior director of the Commission when NEC was dissolved. The dissolution order directed the management to hand over to the most senior director and he assumed the position of head of the Commission with the title of Director General in line with standard practice obtainable in extra -ministerial departments. Members of the Commission were:

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<sup>382</sup> Section 4, National Electoral Commission of Nigeria (Establishment, etc.) Decree 1996

**Table 8.1: Composition of NECON (1994)**

S/N	NAME	STATE	SEX	AGE	DOB
1	Chief Sumner Dagogo-Jack – Chairman	Rivers	Male	65	20/05/1930
2	Alhaji Ado Gwaram	Kano	Male	N/A	NA
3	Ambassador Mahmoud Yahaya	Bauchi	Male	54	NA/NA/1941
4	Mallam Abu Egbunu	Kogi	Male	65	20/01/1930
5	Hon. Silas Arinze Ilo	Enugu	Male	55	NA/NA/1940
6	Mr A Omokayode Anjorin	Lagos	Male	53	11/02/1942
7	Chief (Hon.) Chamberlain Abeki	Delta	Male	56	15/09/1939
8	Professor Sa'ad Abubakar	Taraba	Male	52	29/12/1943
	Alhaji Mohammad Ali – Director General	Borno	Male	N/A	N/A

Although there was a little progress in gender inclusion in the previous years, this was reversed as NECON returned to a fully male-dominated Commission.

#### 8.4 Managing the Electoral Process

By the conclusion of the 1995 Constitutional Conference, a draft Nigerian Constitution was prepared and served as the basis for the conduct of transition to civil rule elections, which started with the issue of guidelines for registration of political parties in June 1996, which did not leave much time to meet the deadline of September 1996. There were said to be 70 political associations, but in order to meet the requirements for registration as parties, in July of the same, the parties, on their own started forming what became 23 alliances.<sup>383</sup> Further distrust about the electoral process was fuelled when of the sixteen associations that managed to apply, only five were accepted as follows: United Nigeria Congress Party (UNCP); Congress for National Consensus (CNC); Democratic Party of Nigeria (DPN); National Centre Party of Nigeria (NCPN); and the Grassroots Democratic Movement (GDM). All other political associations were dissolved with immediate effect.<sup>384</sup> To douse suspicion, the Commission, made an announcement reiterating its registration criteria:

<sup>383</sup> Africa Research Bulletin 1-31 July 1996

<sup>384</sup> Africa Research Bulletin 1-30 November 1996

## **Registration Guidelines for Political Associations Announced in June 1996**

1. Parties were expected to have at least, 40, 000 Members in at least 30 States and 15, 000 in the FCT, Abuja
2. Each Member to receive a photo-membership ID Card
3. Parties were required to submit a comprehensive list of their members with names, ages and residential addresses
4. Parties were mandated to set up offices throughout the country, and demonstrate that they were organised in at least two thirds of the local governments in every state, including Abuja.
5. Each Party was obligated to pay a non-refundable deposit of N500, 000 and to submit a “short profile” of the party and ten copies of its constitution and manifesto.<sup>385</sup>

Local government council elections on a party basis conducted by NECON were to follow in the last quarter of the year. These had to be postponed until March 15, 1997, and were contested by the five newly registered political parties. State House of Assembly elections followed on December 10, 1997, and then National Assembly elections on April 25, 1998, leaving only the Governorship and Presidential elections outstanding. Prior to these elections, NECON embarked on a voter registration process from February 10-19, 1997. The exercise was chaotic and marred by administrative failures and corruption. There were insufficient registration centres, shortages of personnel and materials including voters' cards, which resulted in cards being sold in some areas. Though outside the control of the Commission, the creation of new local government areas, caused protests, which did not help matters. The voter register was not made available to the public prior to the elections either.<sup>386</sup>

The failings of the voter registration exercise affected operations on election day, as voters were turning up at the wrong polling units. This further reduced the credibility of

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<sup>385</sup> Odinkalu, C. A. (2001). The Management of Transition to Civil Rule by the Military in Nigeria (1966-1996). In 'Kunle Amuwo, D. C. Bach, & Y. Lebeau (Eds.), Nigeria during the Abacha Years (1993-1998) (1-). IFRA-Nigeria. <https://doi.org/10.4000/books.ifra.634>

<sup>386</sup> Odinkalu, C. A. (2013). The Management of Transition to Civil Rule by the Military in Nigeria (1966-1996). In 'Kunle Amuwo, D. C. Bach, & Y. Lebeau (Eds.), Nigeria during the Abacha Years (1993-1998) (1-). IFRA-Nigeria. <https://doi.org/10.4000/books.ifra.634>

the elections and increased suspicion about the whole process including the sweeping powers devolved to the Head of State by the Local Government Elections (Basic Constitutional and Transitional) Provisions Decree No. 7 of 1997. It allowed the Head of State to remove any elected member of a Local Government Council, including the Chairman and Vice-Chairman if they were considered to have compromised their party, the finances or proper running of the Council.<sup>387</sup> In addition, the Head of State could dissolve the Council and appoint an administrator until new elections would be held. In other words, the sovereignty of the electorate was far from assured.

The Transition to Civil Rule (Political Programme) (Amendment) Decree No. 9 of 1997 gave room for the manoeuvres and the government took full advantage. Local government supplementary elections, should have taken place by the fourth quarter of 1996, they were shifted to July 1997; State House of Assembly elections, which were supposed to take place between July and September 1997, were rescheduled for December 6, 1997, while election of State Governors, that were scheduled for the fourth quarter of 1997, were re-slated to coincide with the Presidential Elections, that would hold in the third quarter of 1998.<sup>388</sup>

Following the creation of additional states and local government areas during this period, NECON undertook the review and delimitation of the country. There were now 109 senatorial districts, 360 federal constituencies, 990 state constituencies, and 8,809 local council wards (registration areas/electoral wards) as well as approximately 120, 000 polling units. This delimitation structure was largely in place until 2021 when INEC under Professor Mahmood Yakubu, under his expansion of voter access to polling unit programme reconfigured the polling units' arrangements giving rise to an increase of 56, 872 polling units to date.

There was to be an incontrovertible handing-over date of October 1, 1998, going by the provision contained in the Transition to Civil Rule (Political Programme) (Amendment) Decree No. 9 of 1997. However, the inherent weaknesses in the Decree made it possible

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<sup>387</sup> Section 14, Local Government Elections (Basic Constitutional and Transitional) Provisions Decree No. 7 of 1998

<sup>388</sup> Odinkalu, C. A. (2013). The Management of Transition to Civil Rule by the Military in Nigeria (1966-1996). In 'Kunle Amuwo, D. C. Bach, & Y. Lebeau (Eds.), Nigeria during the Abacha Years (1993-1998). IFRA-Nigeria. <https://doi.org/10.4000/books.ifra.634>



for manoeuvring, and the government took full advantage of it. As a result, the citizens were sceptical about whether this transition would eventually occur. In fact, there was a widespread perception that the Abacha regime had no intention of transferring power to a democratically elected government. This perception was further fuelled by the frequent adjustments to the dates of elections almost from day one until the programme was terminated, due to the sudden death of Abacha in June 1998. When a new Head of State, General Abdulsalami Abubakar, emerged, NECON was dissolved, and a new commission called the Independent National Electoral Commission (INEC) was established.

## 8.5 Significant Contributions

In preparation for elections, NECON registered five parties out of the sixteen political associations that applied. They were: United Nigeria Congress Party (UNCP), Congress for National Consensus (CNC), Democratic Party of Nigeria (DPN), National Centre Party of Nigeria (NCPN), and Grassroots Democratic Movement (GDM). However, these five parties were widely described as “Abacha parties”, mainly because they proceeded to unanimously adopt General Abacha as their consensus candidate for the presidential election.<sup>389</sup> This further reinforced the perception that NECON was there to further the agenda of the Abacha regime.

The present electoral delimitation structure of the country was directly lifted from the records of NECON by the successor EMB and was only recently updated in 2021 by Professor Yakubu INEC.

## 8.6 Challenges and Lessons

The main challenge faced by NECON was the lack of independence and freedom of action in managing the electoral process. This stemmed from the mode of appointment and removal of Commission members: they could be appointed and removed solely by the Head of State. The alleged possible transmutation by the General Abacha, the

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<sup>389</sup> Nwangwu, C. (2015). *Biometric Voting Technology and the 2015 General Elections in Nigeria*. <https://www.inecnigeria.org/wp-content/uploads/2019/02/Conference-Paper-by-Chikodiri-Nwangwu-1.pdf>

incumbent military Head of State, into a civilian Head of State further created an atmosphere that was inimical to democracy. Another challenge was the existence of a parallel Transition to Civil Rule Committee that was in conflict with NECON policies and programmes just like NEC before it. NECON suffered deficit of goodwill both from the stakeholders and the international community which did not cooperate with the body with respect to its programmes and project plans.

## **8.7 Conclusion**

NECON was faced with distrust throughout its existence, as many believed the Commission was there to do General Abacha's bidding and further extend his rule or rather transmute him from a military to a civilian president. This feeling of distrust was fuelled by the numerous adjustments of election dates. Ultimately, it is uncertain whether the Commission would have fulfilled its mandate to usher in Nigeria's transition to democracy on October 1, 1998, as the sudden death of General Abacha a few months earlier saw NECON being dissolved by Decree No. 7 of 1998 under the regime of the successor General Abdulsalami Abubakar.



# Independent National Electoral Commission 1998 to Date

Chapter

9

**T**he Independent National Electoral Commission (INEC) was established in 1998 under the regime of General Abdulsalami Abubakar. The body successfully conducted the 1998 -1999 transition elections that culminated in the May 29, 1999, transition to democracy and democratic politics. INEC is the longest-standing electoral commission in Nigeria, having had five chairmen and having conducted seven successive general elections at regular four-yearly intervals in -1999; 2003; 2007; 2011; 2015; 2019; and 2023.

## 9.1 Establishing Statutory Instrument

INEC was established by the Independent National Electoral Commission (Establishment, etc.) Decree No. 17 of 1998 under the Abdulsalam Abubakar regime. Section 1(1) of the Decree states that: “there is hereby established a body to be known as the Independent National Electoral Commission”. Like the NECON Decree, the INEC Decree also established the INEC as a body corporate with perpetual succession, which may sue and be sued in its corporate name.<sup>390</sup>

Following the transition elections in 1999, INEC was re-established by the 1999 Constitution. Like previous constitutions, section 153(1)(f) of the 1999 Constitution refers to INEC as a federal executive body. Although the 1999 Constitution did not give INEC a corporate identity, in 2006, the National Assembly passed an Electoral Act which established INEC as a body corporate with perpetual succession, which may sue and be sued in its corporate name.<sup>391</sup> This provision is replicated in the Electoral Act 2010, which repealed the Electoral Act 2006 and subsequently in the 2022 Electoral Act.

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<sup>390</sup> Section 1(2), Independent National Electoral Commission (Establishment, etc.) Decree 1998

<sup>391</sup> See section 1

## 9.2 Powers and Functions

The 1998 Decree empowered INEC to:

- ✦ organise, conduct and supervise all elections;
- ✦ register political parties;
- ✦ monitor the organisation and operation of political parties including their finances;
- ✦ arrange for the annual examination and auditing of political party funds and accounts, and publish reports for public examination;
- ✦ register voters and prepare and maintain a voters' register;
- ✦ monitor political campaigns and provide rules and regulations to govern political parties;
- ✦ ensure that all Electoral Commissioners, Electoral and Returning Officers take and subscribe the Oath of Office;
- ✦ delegate any of its powers to any State Resident Electoral Commissioner;
- ✦ delimit the Federation or a state into such number of constituencies as may be prescribed by law for the purpose of conducting elections.<sup>393</sup>

Following the transition to democratic rule, the mandate of INEC became also a component part of the 1999 Constitution, as outlined below:

- ✦ organise, undertake and supervise all presidential, governorship and legislative elections in the country;
- ✦ register political parties and monitor their organisation and operation;
- ✦ arrange for the annual examination and auditing of the funds and accounts of political parties and publish reports on these for public information;
- ✦ arrange for the registration of voters and maintain and revise the voters' register;
- ✦ monitor political campaigns and provide rules and regulations to govern the political parties;
- ✦ ensure that all Electoral Commissioners, Electoral and Returning Officers take and subscribe to the oath of office prescribed by law;
- ✦ delegate any of its powers to any Resident Electoral Commissioner.<sup>394</sup>

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<sup>392</sup> See section 1

<sup>393</sup> Section 4, Independent National Electoral Commission (Establishment, etc.) Decree 1998

<sup>394</sup> Paragraph 15, Part 1 of the Third Schedule to the 1999 Constitution

- ✦ Prosecute any Offenders under the Election Act or appoint a Legal Practitioner to do so<sup>395</sup>.

Section 71 of the 1999 Constitution also empowers INEC to divide each state into three senatorial districts for purposes of elections to the Senate and divide the federation into 360 Federal Constituencies for purposes of elections to the House of Representatives.

The 2006, 2010 and 2022 Electoral Acts further mandate INEC to:

- ✦ conduct voter and civic education;
- ✦ promote knowledge of sound democratic election processes;
- ✦ conduct any referendum required to be conducted by law.<sup>396</sup>

### 9.3 Composition

At its establishment in 1998, INEC consisted of a chairman, who doubled as the Chief National Electoral Commissioner and the Chief Executive Officer of the Commission. There were twelve other members known as National Electoral Commissioners. However, when INEC was re-established on the basis of the 1999 Constitution, the Chairman became simply the Chief Electoral Commissioner of the Federation, dropping the earlier statutory titles (National Electoral Commissioner and Chief Executive Officer of the Commission). Under the Abubakar regime, members were appointed solely by the Head of State. Following the transition to civilian rule, members are now appointed by the President in consultation with the National Council of State subject to confirmation by the Senate.

The Chairman of INEC at its inauguration in 1998 was Hon. Justice Ephraim Akpata, JSC (Rtd.) from Edo State who was 71 years old at the time. Alhaji Adamu Bawa Mu'azu was the Secretary.<sup>397</sup> The full list of the members is depicted in table 9.1 below:

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<sup>395</sup> Election Act 2022 S145 (2)

<sup>396</sup> See Section 2, Electoral Act 2006; Section 2, Electoral Act 2010

<sup>397</sup> This is the second time Adamu Mu'azu was appointed as Secretary of the Commission

**Table 9.1: Inaugural Composition of INEC (1998)**

S/N	NAME	STATE	SEX	AGE	DOB
1	Hon. Justice Ephraim Akpata JSC, Rtd.	Edo	Male	71	15/04/1927
2	Hajia Fatima Mu'azu	Bauchi	Female	48	NA/NA/1950
3	Alhaji Usman Ladan Baki	Katsina	Male	71	NA/NA/1927
4	Alhaji Shehu Musa	Niger	Male	63	16/01/1935
5	Chief Janet Omotola Ajayi	Ekiti	Female	N/A	N/A
6	Alhaji Gambo Gubio	Borno	Male	58	14/ 02/1940
7	Professor Shehu Galadanci	Kano	Male	65	10/04/1933
8	Mr. Moshood Oluwole Ojikutu	Lagos	Male	N/A	N/A
9	Chief Lawrence Nwuruku <sup>398</sup>	Ebonyi	Male	41	06/02/1957
	Replaced by Engr. Fidelis Nwankwo	Ebonyi	Male	N/A	N/A
10	Mr. Ignatius Kogbara <sup>399</sup>	Rivers	Male	N/A	N/A
	(Replaced by Dr. Ishmael J. Igbani)	Rivers	Male	57	17/08/1941
11	Chief Elizabeth Ivase	Benue	Female	62	08/08/1936
12	Mr. Okpo Sam Okpo	Akwa Ibom	Male	48	06/06/1950
13	Chief Mrs. Ifeyinwa Mary Obegolu	Anambra	Female	49	30/10/1949
	Alh. Adamu Bawa Mu'azu - Secretary	Niger	Male	43	11/06/1955
	B.O.B. Ochai - Secretary	Kogi	Male	N/A	N/A

Upon the passing of Hon. Justice Akpata in 2000, Dr. Abel Guobadia, who also was from Edo State, and who was 68 years old, was appointed the new Chairman of the Commission. Two more vacancies arose in the composition of INEC before the end of the tenure of the first set of members. Engr. Fidelis Nwankwo and Dr. Ishmael Igbani (both male) were appointed to fill these vacancies. Similarly, Adamu Mu'azu was replaced by B.O.B. Ochai as Secretary of the Commission.

Once the remaining first set of INEC members had served their five-year term, from 1998 to 2003, ten new members were appointed to join Engr. Nwankwo and Dr. Igbani.

<sup>398</sup> Chief Lawrence Nwuruku resigned to become the Minister of State for Steel and was replaced by Engr. Fidelis Nwankwo

<sup>399</sup> Ignatius Kogbara resigned and was replaced by Dr. Ismail Igbani

**Table 9.2: Composition of INEC (2003)**

S/N	NAME	STATE	SEX	AGE	DOB
1	Dr Abel Guobadia – Chairman	Edo	Male	68 <sup>400</sup>	28/06/1932
2	Engr. Emmanuel Anucha Uchola	Kogi	Male	51	12/01/1952
3	Alhaji Bello Bala	Kebbi	Male	51	01/10/1952
4	Senator Olorunnimbe Farunkanmi	Ondo	Male	62	29/08/1941
5	Chief Olukemi Odebiyi	Ogun	Female	N/A	N/A
6	Mr. Settley Daze	Plateau	Male	54	20/06/1949
7	Mrs. Esther Salla	Taraba	Female	57	27/09/1946
8	Mohammed A. Abubakar, Esq.	Bauchi	Male	47	11/12/1956
9	Mr. Ekpeyong Nsa	Cross River	Male	N/A	N/A
10	Professor Maurice Iwu	Imo	Male	53	21/04/1950
11	Dr Shehu Lawal	Kaduna	Male	N/A	N/A
	Dr Mohammed Jumare <sup>401</sup>	Kaduna	Male	60	20/08/1943
12	Engr. Fidelis Nwankwo	Ebonyi	Male	N/A	N/A
13	Dr. Ishmael Igbani	Rivers	Male	57 <sup>402</sup>	17/08/1941
	Hakeem Baba-Ahmed – Secretary	Kaduna	Male	48	11/09/1955

The Secretary was Hakeem Baba-Ahmed (Kaduna State) who replaced B.O.B. Ochai (Kogi State) on the latter's retirement from service.

Since the erstwhile Chairman, Dr. Guobadia, was appointed in 2000, his tenure ended in 2005. He was replaced by Professor Maurice Iwu (Imo State), who was 55 years old at the time. In the run up to the 2007 General Election, Members of the Commission were:

<sup>400</sup> As of date of appointment in 2000 as the replacement for Justice Akpata.

<sup>401</sup> Dr Mohammed Jumare replaced Dr Shehu Lawal following his death later in the year.

<sup>402</sup> As of date of appointment



**Table 9.3: Composition of INEC (2007)**

S/N	NAME	STATES	SEX	AGE	DOB
1	Professor Maurice Iwu – Chairman	Imo	Male	55 <sup>403</sup>	21/04/1950
2	Dr. Ishmael J. Igbani	Rivers	Male	66	17/08/1941
3	Mohammed A. Abubakar, Esq.	Bauchi	Male	51	11/12/1956
4	Engr. Emmanuel A Uchola	Kogi	Male	55	12/01/1952
5	Alhaji Bello Bala	Kebbi	Male	55	01/10/1952
6	Senator O. Farukanmi	Ondo	Male	66	29/08/1941
7	Mr. Settley Daze	Plateau	Male	58	20/06/1949
8	Mr. Ekpeyong Nsa	Cross River	Male	N/A	NA
9	Mrs. Esther Salla	Taraba	Female	61	27/09/1946
10	Dr. Mohammed Jumare	Kaduna	Male	64	20/08/1943
11	Victor Chukwuani, Esq.	Enugu	Male	44	NA/NA/1963
12	Philip Umeadi, Esq.	Anambra	Male	44	21/10/1963
13	Mr. Solomon Adedeji Soyebi	Ogun	Male	52	23/04/1955
	A.B. Jauro – Secretary	Taraba	Male	N/A	N/A
	Abdullahi Kaugama – Secretary	Jigawa	Male	N/A	N/A

The Secretary was Alhaji A.B. Jauro (Taraba) who after end of tenure was replaced by Alhaji Abdullahi Kaugama (Jigawa), who became the first appointed Secretary to the Commission from within the Commission. He had three deputy Secretaries in addition to the Coordinator of The Electoral Institute (TEI) who was a deputy secretary equivalent. They were Steve Osemeke (Delta State) Deputy Secretary, Publicity and Corporate Affairs; Abdulrahman Madaki (Kebbi State), Deputy Secretary, Operations; and Emmanuel Ademola Johnson (Lagos State) Deputy Secretary Administration and Frank Uzor (Imo State), Coordinator, TEI.

In 2010, Professor Iwu, having nearly completed his statutory tenure was replaced by Professor Attahiru Jega (Kebbi State), a well-known activist scholar and one-time President of ASUU (1990-1994), as the new Chairman of the Commission. He was 53 years old as at the date of his appointment. Alhaji Abdullahi Kaugama was the Secretary. Members of the Commission were:

<sup>403</sup> As of date of appointment in 2005

**Table 9.4: Composition of INEC (2010)**

S/N	NAME	STATE	SEX	AGE	DOB
1	Professor Attahiru Jega OFR- Chairman	Kebbi	Male	53	11/01/1957
2	Dr. Abdulkadir S. Oniyangi	Kwara	Male	75	31/07/1935
3	Ambassador Ahmed Wali	Sokoto	Male	54	15/12/1956
4	Hajiya Amina Zakari	Jigawa	Female	50	23/06/1960
5	Dr. Chris Iyimoga	Nasarawa	Male	59	20/02/1951
6	Dame Gladys Nne Nwafor	Abia	Female	61	NA/NA/1949
7	Dr. Ishmael J. Igbani	Rivers	Male	69	17/08/1941
8	Professor Lai Olurode	Osun	Male	58	02/11/1952
9	Col. M.K Hammanga, Rtd.	Adamawa	Male	54	18/11/1956
10	Engr. (Dr.) Nuru Yakubu	Yobe	Male	53	17/01/1957
11	Philip Umeadi, Esq.	Anambra	Male	47	21/10/1963
12	Mr. Solomon Adedeji Soyebi	Ogun	Male	55	23/04/1955
	Prof. Akinola M. Salau <sup>404</sup>	Oyo	Male	63	21/11/1947
13	Mrs. Thelma Iremiren	Delta	Female	64	28/03/1946
	Abdullahi Kaugama – Secretary	Jigawa	Male	N/A	N/A
	Augusta C. Ogakwu -Secretary	Anambra	Female	49	01/08/1964

Following the end of Professor Jega's tenure in 2015, Hajiya Amina Zakari (Jigawa State), who was 55 years old at the time, was made Acting Chairperson of INEC. A few months after, Professor Mahmood Yakubu (Bauchi State), who was 53 years old at the time, was appointed the new Chairman of INEC. Mrs. Augusta Chinwe Ogakwu (Anambra State) was the Secretary. She is the first female secretary of Nigeria' EMB and Commission and replaced Abdullahi Kaugama in 2013 when his tenure ended. Other members of the Commission were:

<sup>404</sup> Professor Akinola Muritala Salau replaced Mr. Solomon Soyebi when the later tenure expired.

**Table 9.5: Composition of INEC (2015)**

S/N	NAME	STATE	SEX	AGE	DOB
1	Professor Mahmood Yakubu – Chairman	Bauchi	Male	53	NA/05/1962
2	Hajiya Amina Zakari	Jigawa	Female	55 <sup>405</sup>	23/06/1960
3	Professor Antonia Simbine	Kogi	Female	N/A	15/03/NA
4	Alhaji Baba Shettima Arfo	Yobe	Male	64	31/03/1951
5	Dr. Mohammed Mustafa Lecky	Edo	Male	61	02/08/1954
6	Prince Solomon A. Soyebi	Ogun	Male	60	23/04/1955
7	AVM Ahmed Mu'azu (Rtd.)	Gombe	Male	58	06/09/1957
8	Mallam Mohammed Haruna	Niger	Male	64	22/09/1951
9	Professor Okechukwu Ibeanu	Anambra	Male	56	30/11/1959
10	Engr. Abubakar Nahuche	Zamfara	Male	62	23/03/1953
11	May Agbamuche-Mbu, Esq.	Delta	Female	54	08/05/1961
12	Dr. Adekunle Ogunmola	Oyo	Male	63	07/05/1952
13	Festus Okoye, Esq.	Imo	Male	55	04/02/1960
	Augusta Chinwe Ogakwu - Secretary	Anambra	Female	51	01/08/1964

Following the expiration of Professor Yakubu's first tenure in 2020, AVM Mu'azu, (Gombe State) who was 63 years old at the time, was made Acting Chairman. A month later, Professor Yakubu was reappointed, making him the first Chairman of a national electoral commission in Nigeria to be re-appointed. Mrs Rose Orianran-Anthony (Edo State) is the current Secretary to the Commission. The full list of members of the Commission is as follows:

<sup>405</sup> As of date of re-appointment in 2015

**Table 9.6: Composition of INEC (2020)**

S/N	NAME	STATE	SEX	AGE	DOB
1	Professor Mahmood Yakubu	Bauchi	Male	58 <sup>406</sup>	NA/05/1962
2	Festus Okoye, Esq.	Imo	Male	58	04/02/1960
3	Professor Muhammad S. Kallah	Katsina	Male	73	07/07/1947
4	Professor Abdullahi Abdu Zuru	Kebbi	Male	64	01/01/1956
5	Professor Kunle Cornelius Ajayi	Ekiti	Male	61	18/03/1959
6	Professor Sani Adam	Plateau	Male	54	03/02/1966
7	Dr. Baba Bila	Yobe	Male	62	02/09/1958
8	Mallam Mohammed Haruna	Niger	Male	69	22/09/1951
9	May Agbamuche-Mbu, Esq.	Delta	Female	59 <sup>407</sup>	08/05/1961
10	Kenneth N. Ukeagu	Abia	Male	59	01/01/1963
11	Major-General A.B Alkali	Adamawa	Male	61	29/11/1959
12	Professor Rhoda Gumus	Bayelsa	Female	67	21/07/1953
13	Sam Olumekun	Ondo	Male	68	09/07/1954
	Rose Orianran-Anthony - Secretary	Edo	Female	N/A	01/05/NA

An analysis of the composition of INEC over the years reveals that the Commission had had the highest number of women at its establishment in 1999 (four women). Since then, the number of women has ranged between one and three. Although, INEC under Jega appointed the first female secretary of an EMB and Commission when Augusta Ogakwu took over from Abdullahi Kaugama in 2023. Currently, there are only two women in the Commission, which reveals the poor level of gender inclusion that has remained within the composition of the Commission.

#### 9.4 Managing the Electoral Process

The Akpata-led INEC conducted fresh registration of voters in September 1998 and following provisional registration of nine political parties in October 19, 1998, conducted local government and area council elections on party basis on December 5, 1998. The

<sup>406</sup> The Chairman was 53 years when he became chairman in 2015 and was 58 years at his re-appointment as chairman

<sup>407</sup> She was 54 years in 2016 when she joined and 59 years at the start of her second term

outcome which was the basis for the registration of three political parties namely: Alliance for Democracy (AD); All Peoples Party (APP); and the People's Democratic Party (PDP) for the rest of elections held as follows:

- January 9, 1999: Governorship and State Houses of Assembly
- February 20, 1999: National Assembly
- February 27, 1999: Presidential

There was no substantive Electoral Act for the conduct of these transition elections until the enactment of the 2001 Electoral Act. As such, The Carter Centre and the National Democratic Institute for International Affairs noted that through the 1998/99 electioneering period, the military government relied on ad-hoc decrees to guide the transition process.<sup>408</sup>

Guobadia was proactive about preparations for the Voters' Register and set out to work; especially, the preparation of related Electoral Legislation ready for the 2003 Elections. The latter almost turned out to be his nemesis. The 2001 Electoral Bill was hijacked by politicians as it had many contentious clauses, some drafted by INEC itself; while others were sneaked in, courtesy of the executive and or the legislative branches of government. We stated herein that the 2001 Electoral Act had some contentious clauses which include the following:

1. The sequence of elections was changed as follows:
  - a. Presidential
  - b. National Assembly
  - c. State Governorship and Houses of Assembly
  - d. Local
2. Extended the tenure local governments from three to four years by amending Section 7 of the 1999 Constitution which gave the states exclusive power to legislate on local government matters.

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<sup>408</sup> Carter Center and National Democratic Institute for International Affairs. (1999). Observing the 1998-99 Nigeria Elections. <https://www.cartercenter.org/documents/1152.pdf>

3. A registered political party **must win** at least fifteen percent of the chairmanship and Councillorship positions in the federation, spread among two thirds of the states and the Federal Capital Territory to participate in general elections.'

The 2001 Electoral Act was challenged in court several times by state governments which took the matter to the Supreme Court and won: 2001 Electoral Act. Judgement S.C. 3/2002 28-03-2002. Gani Fawehinmi's National Conscience Party (NCP) and other political associations also challenged the Act and got some relief. Sections 74(2) g and (h), 74(6), 77(g), 78(h) and 79(2) (c) of the 2001 Electoral Act were declared unconstitutional, null and void by Justice Dahiru Musdapher, JCA on July 26, 2002.<sup>409</sup> Gani Fawehinmi also challenged certain INEC Guidelines up to the Appeal Court and partially won the case. These were sections 2(d), 3(a), 3(c), 3(d), 3(e), 3(f), 3(g), 3(h), 5(g), 5(h) and 5(b) of the guidelines.<sup>410</sup> Accordingly, political associations were then only needed to meet six conditions to be registered as political parties. These conditions are laid out in Section 221 of the Constitution of the Federal Republic of Nigeria as follows:

221. No association by whatever name shall function as a political party, unless -
- (a) the names and addresses of its national officers are registered with the Independent National Electoral Commission;
  - (b) the membership of the association is open to every citizen of Nigeria irrespective of his place of origin, circumstance of birth, sex, religion or ethnic grouping;
  - (c) a copy of its constitution is registered in the principal office of the Independent National Electoral Commission in such form as may be prescribed by the Independent National Electoral Commission;
  - (d) any alteration in its registered constitution is also registered in the principal office of the Commission within 30 days of the making of such alteration;
  - (e) the name of the association, its symbol or logo does not contain any ethnic or religious connotation or give the appearance that the activities of the association are confined to a part only of the geographic area of Nigeria; and

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<sup>409</sup> CA/A/74/2002

<sup>410</sup> Ibid, INEC Guidelines Declared Unconstitutional, Null and Void by Justice Dahiru Musdapher 26<sup>th</sup> July, 2002 Appeal NO. CA/A/74/2002

- (f) the headquarters of the association is situated in the Federal Capital Territory, Abuja.<sup>411</sup>

Due to the controversy, the 2001 Electoral Act was short-lived and replaced by the Electoral Act 2002 as the governing law for the conduct of the 2003 General Election. As discussed earlier, the elections were far from perfect. However, INEC could be commended for achieving what it set out to do: usher in Nigeria's return to democracy. The electoral irregularities in the 1999 elections intensified in 2003, especially in 2007. Some INEC officials were said to be complicit in all cases. For instance, during the 1999 elections, observers gave instances of INEC officials or party agents illegally thumbprinting multiple ballots themselves.<sup>412</sup> Araba and Braimah noted that during these early years, “INEC was accused of not being able to engender public confidence in the electoral process or organise transparent and credible elections”.<sup>413</sup>

Despite these irregularities, 2007 cycle also recorded some innovations such as the use of customized ballot papers for each electoral constituency, which was introduced for the first time in Nigeria's electoral history in order to minimize the ballot-stuffing. This period also saw the establishment of The Electoral Institute (TEI).<sup>414</sup> TEI, with two satellite campuses and partnership arrangement with three Nigerian universities, was expected to undertake “training of electoral personnel, research and documentation and further institutionalize the innovations and reforms introduced for 2007 elections”.

However, more wholesome changes came in 2010 when a series of electoral reforms were implemented, including the passing of a new Electoral Act, the amendment of the same Electoral Act; and the appointment of a new INEC Chairman, Professor Attahiru Jega. Following these changes, INEC was much more efficient in conducting the 2011 elections.

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<sup>411</sup> Section 221 (a–f), Constitution of the Federal Republic of Nigeria, 1999

<sup>412</sup> Carter Center and National Democratic Institute for International Affairs. (1999). Observing the 1998-99 Nigeria Elections. <https://www.cartercenter.org/documents/1152.pdf>

<sup>413</sup> Araba, AA & Braimah, JO. (2015). Comparative Study of 2011 and 2015 Presidential Elections in Nigeria. *Global Journal of Human-Social Science F: Political Science*. 15(7), 48-54.

<sup>414</sup> Iwu, M.M. (2008). The April 2007 Elections in Nigeria: What Went Right? Distinguished Lecture Under the Professional Programme in Election Administration, Department of Political Science, University of Ibadan. KII with Professor Iwu, September 6, 2021

Apart from the logistical hiccups, which meant that the National Assembly Election had to be postponed whilst some people were already in the polling units queuing and actually voting, a decision was taken to postpone every election by one week.

There were further reforms by INEC such as including a thorough clean-up of the voter's register with the running of Automated Fingerprint Identification System (AFIS) to remove duplicate registrations, the introduction of Permanent Voter Cards (PVCs) and electronic card-reading machines,<sup>415</sup> as well as issuance of comprehensive guidelines for the 2015 elections.<sup>416</sup> This made the 2015 elections, indeed much better than what used to be norm. The Smart Card Reader (SCR) and the PVC enabled accreditation of voters to be carried out seamlessly and efficiently, as much as they provided a tally of how many voters were accredited. This ensured that over-voting fraud could easily be exposed.

However, there was a setback in 2019. Observers pointed out that the operations of INEC fell short of its expected role and obligations, and the observed operational challenges marred the credible conduct of the elections.<sup>417</sup> This was reflected, in one instance, in the fact that the elections were postponed just a few hours before polls were scheduled to open.<sup>418</sup> Furthermore, various factors, including late disbursement of electoral funds by the government; failure to review the Electoral Act; insecurity, and the intra-party conflicts plus poorly conducted political primaries, which delayed the quick production of ballot material, were responsible for this setback.<sup>419</sup>

To address issues from 2019 and to improve the electoral process in general, the Yakubu-led INEC has instituted new technologies, such as introducing a bi-modal voter accreditation system (BVAS), and reforms such as expanding access to polling units by increasing the numbers of polling units by almost 50% and increasing engagement with stakeholders. These are discussed in more detail below.

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<sup>415</sup> Ibid

<sup>416</sup> These guidelines were reviewed for 2019 elections to cater for the new innovations. Guidelines are complementary to the Electoral Act and are issued for every electoral cycle.

<sup>417</sup> Nigerian Civil Society Situation Room. *Report of Nigeria's 2019 General Elections, op. cit.*

<sup>418</sup> This is the first time this has happened. In 2011 people were queuing to vote when the election was postponed.

<sup>419</sup> Fatai, A. (2020). Smart Card Readers and the Quality of the 2019 General Elections in Nigeria: Successes and Challenges. *The Round Table*, 109(4). 396–405



## 9.5 Significant Contributions

One major contribution of INEC is that it conducted elections that ushered in Nigeria's final return to democracy in 1999, something that the two preceding electoral commissions (NEC and NECON) had failed to do. This was specifically achieved under the Akpata-led INEC which oversaw the conduct of the 1998 local government elections and the 1999 national and state elections. By conducting the 1998 local government elections, the Akpata-led Commission was also the only commission under the ongoing democratic dispensation to have managed nation-wide local government election. Following the enactment of the 1999 Constitution, the conduct of local government elections shifted to the purview of State Independent Electoral Commissions (SIECs).<sup>420</sup> Another significant achievement of the Akpata-led INEC was the establishment of strict conditions for registration of 'nationalist' parties to avoid the pitfalls that emerged from the immediate post-independence regional-ethnic-based political parties in Nigeria.<sup>421</sup> Since 1999, the rejuvenated INEC has conducted seven successive general elections, the highest out of all electoral commissions in Nigeria's political history.

Another significant contribution of INEC has been the introduction of technology to the electoral process. Prior to the 2003 elections, voter registration was done manually using typewriters. This led to numerous inaccuracies and multiple registrations. In the run up to the 2003 elections, INEC under Dr Guobadia, introduced the use of computer equipment, including Optical Mark Readers (OMRs) and AFIS which allowed the voters' register to be fully computerised. Guobadia summarised his achievement in an address to the Senate dated May 24, 2007 thus:

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<sup>420</sup> Olaniyi, O. J. (2017). State Independent Electoral Commissions and local government elections in Nigeria. *Africa's Public Service Delivery and Performance Review*. 5(1) <https://apsdpr.org/index.php/apsdpr/article/view/133/246>

<sup>421</sup> The Carter Center/National Democratic Institute for International Affairs. *Observing the 1998-99 Nigeria Elections: Final Report*

**Box III: Dr Abel Guobadia Letter to Senate**

Distinguished Senator,

My name is Abel Ibude Guobadia, immediate past chairman of INEC and together with my national commissioners some of whom are present here conducted the 2003 elections.

I retired from INEC in May 2005 to my native Benin City and have been enjoying my quiet moments, having served my fatherland proudly in various capacities, as a director of planning and for over two years as the acting executive secretary in the National Universities Commission (1971-1983). I was the commissioner of education (1984-1986), of finance and economic planning (1986- 1987) in the old Bendel State, Ambassador Extraordinary and Plenipotentiary to the Republic of Korea (1987-1991) and INEC chairman (May 2000- May 2005). Between 1993 and May 2000, I was the secretary of Benin Forum.

It is also pertinent to mention here that I am a physicist by training having obtained a Ph. D. in the subject matter in 1966. I taught at the Universities of Nigeria (1961-1966) and Lagos (1966-1971).

I have only a faint idea of why I am invited to this hallowed Chamber today. But I want to put on record for the sake of posterity that:

INEC, under my chairmanship, set up the ICT department for the efficient deployment of Information Technology tools in the electoral process.

INEC, under my chairmanship, developed the strategic thinking leading to the computerisation of the voter register.

INEC, under my chairmanship, produced the first electronic voters register for the Nigerian nation. This register was successfully used for the 2003 elections. While it was not perfect, it is my humble opinion that it would have been made better by only a small fraction of the funds required to dabble into another electronic voter register.

INEC under my chairmanship, transmitted election results electronically by VSAT, HF Radio and pasted election results on the Commission's website as the vote counts were recorded from the field.

While I await your questions, which I hope will be restricted to my activities while in office. I crave your indulgence to make an observation regarding the constitution of the INEC I think that membership of such an important constitutional body should be reserved for socially mature and distinguished individuals who have track records of meritorious public or private sector service in particular, a Nigerian who has experience in management at the highest public level should occupy the position of chairman of INEC Such an individual would not only be equipped with the soundness of mind but also have the temperate language to administer a sensitive institution such as INEC.

Abel. Guobadia, OFR

24 May, 2007<sup>422</sup>

Despite efforts at digitising the voters' register as outlined in box 1 above, there were still challenges related to “incorrect information of voters; omissions of names and “ghost” entries”.<sup>423</sup> Moreover, only voters' details and their fingerprints were captured; no photographs were taken due to political considerations, even though the Commission planned to do it.

Under Professor Iwu, besides the establishment of TEI as an institution for training, research and documentation, there was an improvement in INEC storage and distribution of electoral materials with the building of six zonal stores across the six geopolitical zones of Nigeria and the establishment of two secured warehouses in Abuja and Lagos.<sup>424</sup>

<sup>422</sup> Guobadia, I. A. (2009). *Reflections of a Nigerian Electoral Umpire*. Benin: Mindex Publishing Co. Ltd. Pp, 180 - 181

<sup>423</sup> These challenges would later be addressed under the Jega Commission using Automated Finger Identification System (AFIS); INEC. (n.d.). *Continuous Voter Registration Guide*. <https://www.inecnigeria.org/wp-content/uploads/2019/02/ContinuousVoterRegistrationGuide.pdf>; [Interviews with KIIs](#)

<sup>424</sup> Iwu, M. M. (2008). The April 2007 Elections in Nigeria: What Went Right? Lecture Delivered under the Professional Programme in Election Management, Department of Political Science. University of Ibadan Annual Distinguished Lecture, Ibadan, April 15, 2008. Also see [www.gamji.com/article6000/NEWS7964.htm](http://www.gamji.com/article6000/NEWS7964.htm)  
Professor Maurice Iwu, Interview, September 6, 2021

These were corroborated by the Interview with Dr Ishmael Igbani, September 7, 2021

Under Iwu, INEC replaced the OMR system with the Direct Data Capture (DDC) technology. The DDC allowed for “direct capture of voters' details [including photographs], data backup and transfer”.<sup>425</sup> Although the DDC machines were not used effectively during the 2007 elections due to a lack of proper training and issues of non-transparency.<sup>426</sup> The impact of the technology was felt during the 2011 elections. Under the leadership of Professor Jega, over 132,000 DDC machines were procured and deployed – one per polling unit and registration area, with a provision for some contingencies.<sup>427</sup> The Automated Fingerprint Identification System (AFIS) was further utilized prior to the 2011 election in order to reduce double registration and make the voters' register more credible. Undoubtedly, the improved voter registration process contributed to the success of the 2011 General Election.

Between 2011 and 2015, INEC under Professor Jega organized two elections – the 2011 and 2015 General Elections. Under each of the elections, innovative measures were introduced towards improving the credibility and transparency of the process. In the eight months during which the Professor Jega's Commission prepared for the 2011 General Election, the Commission introduced a new biometric register of voters and security features on electoral materials (including ballot papers and boxes). It also took steps to improve transparency at PUs and Collation Centres by providing for results to be pasted at PUs and Collation Centres. The Commission also established the Inter-Agency Consultative Committee on Election Security (ICCES) to improve election security.<sup>428</sup> The measures taken to improve the credibility of elections ahead of the 2011 elections were highlighted by Prof. Jega in his lecture delivered at Chatham House on July 4, 2012 thus:

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<sup>425</sup> Ibid

<sup>426</sup> Ayeni, T.P. & Esan, A.O. (2018). The Impact of ICT in the Conduct of Elections in Nigeria. *American Journal of Computer Science and Information Technology*, 6 ( 1 : 1 4 ) . [https://www.researchgate.net/publication/324563304\\_The\\_Impact\\_of\\_ICT\\_in\\_the\\_Conduct\\_of\\_Elections\\_in\\_Nigeria](https://www.researchgate.net/publication/324563304_The_Impact_of_ICT_in_the_Conduct_of_Elections_in_Nigeria)

<sup>427</sup> Ibid

<sup>428</sup> Jega, A. A. (2012). *Public Lecture 2011 General Elections and the Consolidation of the Democratic Process in Nigeria*. Centre for Social Research and Advocacy, University of Lagos. p. 43

#### **Box IV: Professor Jega on New Measures Introduced Ahead of 2011**

We introduced a number of new measures aimed at addressing the issues and concerns that we identified. For example, we added some security features and introduced unique serial numbering and identification of the ballot boxes, such that we knew which ballot box was taken to which of the 119,973 polling units. Then, we introduced additional security features, serial numbering and colour coding of ballot papers. Indeed, we produced the ballot papers mostly on a constituency-by-constituency basis, reflecting the specific number of political parties contesting in each of the constituencies. In the past, elections were characterised by politicians hijacking ballot papers from one constituency and taking them to another constituency may be, a constituency where they did not have a strong following to stuff the ballot boxes there. But if they did it this time, it would be very clear and it would be known because the ballot papers were colour coded.

We also introduced a new voting procedure that we call the Re- Modified Open Ballot System (REMOBS). It is a very unique and unconventional system of voting, but it is meant to deal with some of the unique challenges of conducting elections in Nigeria. Basically, what this procedure required was that instead of voters presenting themselves at the polling unit anytime, say between 8a.m. and 4p.m. (or 5p.m.), to be accredited and to vote, they now presented themselves at a particular time between 8a.m. and 12noon for accreditation. Then, every person who was accredited at a particular polling unit had to be there at 12.30p.m. for the commencement of voting. Of course, many people say it was a bit cumbersome and time-consuming; but it certainly helped the integrity of the process and ensured that by the time voting ended, everybody who was there could also stay for the counting of ballots to be done in public view to determine how many people voted and who was voted for in their own polling centres.

Also, we introduced a phased and decentralised system of distribution of electoral materials; such that long before the elections, materials were taken closer to the polling units for easier distribution and early commencement of the process. Then, we ensured that there was greater coordination of the role of security agencies in elections

by creating what we call the Inter-agency Consultative Committee on Election Security (ICCES). This platform helped us in a number of respects to minimise inter-agency rivalry, and to coordinate their efforts in terms of how to secure the voting environment and how to provide security cover for the entire electoral process.

When it came to collation and announcement of results, we made sure that INEC staff were not directly involved. Rather, we brought people whose integrity is not in doubt, particularly from the universities: we used Vice-Chancellors and Professors of high standing to play the role of Returning Officers in the states during the elections. We also used members of the National Youth Service Corps (NYSC) scheme as Presiding Officers for the elections. These are young men and women who were on national service, who are very passionate about the country and who, compared to other constituencies that we could have used, really have greater integrity in the way they discharged their duty.

Then, we ensured transparent, timely collation and announcement of results, with audio-visual recording and live media coverage; such that for the first time, from local to national elections, we were able to declare results within 36 to 48 hours. Really, again, this was a remarkable improvement on our past experiences in the country.<sup>429</sup>

The innovations outlined above were reiterated by Prof. Jega in a 2012 Public Lecture at the Centre for Social Research and Advocacy, University of Lagos<sup>430</sup> and during a 2014 Presentation at Chatham House on “The Path to Nigeria's 2015 Elections: Expectations, Priorities and INEC.”<sup>431</sup>

As Nigeria prepared for the 2015 General Election, the Jega's Commission further took steps to improve the quality of the electoral process in Nigeria. The Commission took

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<sup>429</sup> Jega, M. A. (2012). *Improving Elections in Nigeria: Lessons from 2011 and Looking to 2015*. A lecture delivered by the Hon. Chairman, Independent National Electoral Commission (INEC), at Chatham House, London on July 4, 2012). Abuja: Independent National Electoral Commission.

<sup>430</sup> Jega, A. A. (2012). *Public Lecture 2011 General Elections and the Consolidation of the Democratic Process in Nigeria*. Centre for Social Research and Advocacy, University of Lagos. p. 43

<sup>431</sup> Chatham House (2014). *Nigeria's 2015 Elections: Expectations, Priorities and the Independent National Electoral Commission*.

[https://www.chathamhouse.org/sites/default/files/home/chatham/public\\_html/sites/default/files/300114nigeria.pdf](https://www.chathamhouse.org/sites/default/files/home/chatham/public_html/sites/default/files/300114nigeria.pdf)

Measures for improving the internal efficiency and effectiveness of INEC by addressing skills gaps and developing training programmes where necessary. The commission also introduced the Smart Card Reader technology, adopted a gender policy, proposed legal reforms and took steps towards acquiring the capacity to produce electoral materials.<sup>432</sup> The box below offers an elaborate highlight of the innovative measures taken by the Jega's Commission ahead of the 2015 General Election:

**Box V: Reforms and Innovation of the Jega's Commission ahead of the 2015 General Election**

**PREPARATIONS TOWARDS 2015**

Three focal points: structure, policy and plan. In structure, we have taken a long and deep look at INEC as an institution, its structure and processes, as well as its human resources. In policy, we have focused on developing new policies to, guide our work and create the right normative framework for successful election management in Nigeria. In planning, we have focused on both strategic planning and election planning

The following are some details of what the Commission has done in the past 18 months as it prepares for the 2015 elections:

- A Strategic Plan (2012-2016), and a detailed Strategic Program of Action have been formulated and are being implemented
- A detailed Election Project Plan has been drafted, the implementation of which will ensure seamless execution of specific tasks leading to the 2015 elections
- A comprehensive reorganization and restructuring of the Commission have been completed, drawing from the recommendations of a highly rated management consulting firm. This restructuring, in summary, is designed to achieve the following:
  - define an optimal structure;

<sup>432</sup> Chatham House (2014). Nigeria's 2015 Elections: Expectations, Priorities and the Independent National Electoral Commission.

[https://www.chathamhouse.org/sites/default/files/home/chatham/public\\_html/sites/default/files/300114nigeria.pdf](https://www.chathamhouse.org/sites/default/files/home/chatham/public_html/sites/default/files/300114nigeria.pdf)

## **Box V: Reforms and Innovation of the Jega's Commission ahead of the 2015 General Election**

- (b) eliminate duplications and overlaps in roles;
- (c) streamline branches of the Commission namely, Departments, Units, Desks, etc., and clarify manning levels;
- (d) clarify job descriptions.
- (e) Identify skills and competencies required to man the branches of the Commission.
- (f) Augment skills through continuous training, where necessary, and
- (g) enhance the conditions of service of staff.
- The consolidation and deduplication of the biometric Register of Voters has been completed, as a result of which the Register of Voters now has tremendous integrity, much better than the one with which 2011 elections were conducted. Indeed, it compares favourably with any Register of Voters on the African continent.  
Plans have been finalized to roll out a program of Continuous Voter
- Registration (CVR) nationwide. The CVR offers a fresh opportunity to get more citizens onto the electronic register ahead of the 2015 general election, as we have stopped using Addendum register for elections. Our experience in the recent governorship election in Anambra State showed that we have much work to do in convincing the public of the integrity of the Register of Voters.
- Plans have been concluded to issue all duly registered voters with chip-based PVCs, which will be swiped with card readers in the 2015 elections to ensure 100 percent verification and authentication of voters.
- A Communication Policy/Strategy, designed to improve both internal and external communication by the Commission has been drafted and will soon be put of good use.
- A Gender Policy intended to make the Commission's work more gender-sensitive in line with global best practice, is being drafted and would be put to use for value-added well before the 2015 general elections.
- Drawing from our experiences in 2011, recommendations for improvements of the legal framework, especially the Constitution and the Electoral Act have been submitted to the National Assembly. A Committee (COREC) was set up



### **Box V: Reforms and Innovation of the Jega's Commission ahead of the 2015 General Election**

to review the role of the Commission in election-related litigations, and it has made far-reaching recommendations on improvements towards 2015.

The mapping and reengineering of the Commission's Business Process and

- Election Management System (EMS) has been concluded.
- A Graphic Design Centre has been established with support from IFES, which for the first time, gives the Commission the capacity to produce election materials internally.
- A program for the review of electoral constituencies and the creation of additional polling units has commenced.
- The training and retraining of staff on an ongoing basis, especially through several training workshops is underway, with the support of many development partners.
- All Guidelines and Regulations on the electoral process are being revised and discussion has commenced with legal experts nationwide on how to enact and gazette them.
- An Election Risk Management Tool is being deployed ahead of the 2015 elections, with the support of the African Union (AU) and International IDEA, to enable the Commission to gather information about risk factors associated with the election, be able to analyze them and deploy effective measures to contain or mitigate them, towards ensuring peaceful and violence-free elections.

Source: Jega, 2014<sup>433</sup>

With the introduction of PVC, Smart Card Readers and other innovative measures, the Jega-led Commission sought to reduce the likelihood of electoral malpractices such as double voting was reduced drastically. Nevertheless, it must be noted that there were numerous instances of SCR failure, as they sometimes worked slowly or in some cases did not even work at all. Against the likelihood of this unpalatable experience, in the 2015 to 2019 electoral cycle, efforts to improve the electoral process continued.

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<sup>433</sup> Jega, A. (2014). Elections in Nigeria: Preparations and Challenges

Under the leadership of Professor Mahmood Yakubu, INEC introduced collapsed accreditation and voting procedures, whereby voters were accredited using their PVC and a SCR and then proceeded to vote using a ballot paper; presentation of results at the voting centres; and some improvements in the use of voter-verification devices through the introduction and use of smart card reader machine and training of INEC staff”.<sup>434</sup> In this light, even though there were severe problems in the 2019 elections, including cases of malfunctioning of the card readers, it was noted that there were overall improvements in the operational efficiency of the smart card reader in 2019.<sup>435</sup>

From the 2019 elections, the process of technological advancement has continued. The INEC Results Viewing Portal (IREV) was introduced and used during the 2020 Edo and Ondo States' governorship elections. This portal allowed citizens to track election results in real time regardless of their location, and also allowed for more detailed analysis of the election results by researchers.

Ahead of the 2019 election, INEC issued new Regulations and Guidelines for the conduct of the 2019 General Elections at its Quarterly Consultative meeting with Civil Society Organisations (CSOs). The Regulations and Guidelines describe the procedure for the conduct of the elections and also prescribe requirements for a successful election process. The Yakubu-led Commission also set up an Electoral Logistics Committee and a National Collation Committee for the General elections. The Logistics Committee was responsible for co-ordinating logistics support, as well as clearance and transportation of election materials to different locations nationwide; while the Collation Committee will be in charge of the National Collation Centre, from where the results of the Presidential election will be announced. In preparation for the election, the Committee also developed a mobile application, the '*INEC i-reporter*', which was to be used by Nigerians to monitor the 2019 General elections and share pictures, short videos and other information on election-day developments in real time to INEC.<sup>436</sup> The innovations by the first tenure of the Yakubu-led INEC are outlined in the box below for clarity:

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<sup>434</sup> Onapajo, H. The tragedy of the umpire: the electoral management body and Nigeria's 2019 general elections, *op. cit.*

<sup>435</sup> Ibid

<sup>436</sup> Nigeria Civil Society Situation Room. (2019). INEC revs up preparations for 2019 General Elections. <https://situationroomng.org/inec-revs-up-preparations-for-2019-general-elections/>

**Box VI: Some Contributions by the Yakubu-Led INEC Ahead of the 2019 General Election**

- Under Mahmood's first tenure as Chairman of INEC, the commission developed a mobile application, the '*INEC i-reporter*', for use by Nigerians to monitor the 2019 General elections and share pictures, short videos and other information on election-day developments in real time to INEC.
- Other innovations by INEC in the first tenure of the Mahmood-led Commission include the provision for results to be pasted at PUs and Collation Centres, the introduction of a Strategic Plan (2012-2016), and a detailed Strategic Program of Action for the election as well as a detailed Election Project Plan was drafted.
- The Commission under Professor Yakubu's first tenure also adopted a revised Communication Policy/Strategy, designed to improve both internal and external communication by the Commission,
- The Yakubu-led Commission also adopted a Gender Policy intended to make the Commission's work more gender-sensitive in line with global best practices.

Ahead of the 2023 general elections, further innovations were made and the Yakubu-led INEC also consolidated on prior innovations of EMBs. During this period, INEC improved voter access to polling units by creating an additional 56,872 polling units in across the country in 2021. The commission also expanded access for PWDs by providing policy framework and assistive devices to aid their participation during election. The table below contains a summary of electoral innovations introduced ahead of the 2023 general election by INEC as compiled by The Electoral Hub.

**Table 9.7: Some Innovations of the Professor Yakubu-led INEC Ahead of 2023 General Election**

S/N	Innovation	Purpose
1	Zpads	<ul style="list-style-type: none"> <li>- Deployed technology to support the publishing of election results</li> <li>- ZPad are used at PUs for results upload to the IReV Portal</li> </ul>
2	INEC Result Viewing (IReV) Portal	<ul style="list-style-type: none"> <li>- technology that enabled the public view Elections results of all Polling Units (EC8As) on a Portal</li> </ul>

S/N	Innovation	Purpose
3	INEC Voter Enrolment Device (IVED)	- Improved android-based voter registration device
4	Continuous Voter Registration (CVR) Online Platform	- Activation of a dedicated online portal for voter registration.
5	Bi-modal Voter Accreditation system (BVAS)	- Voter's card verification and authentication - Biometric scan – both facial and thumb - PU result upload
6	INEC SANS	- Security Alert and Notification System

*Source: Compiled by The Electoral Hub<sup>437</sup>*

The BVAS introduced by the Yakub-led INEC carries out the three functions of registering voters, accreditation of voters, storing and displaying election results. The BVAS also offered two options for voter accreditation: fingerprint recognition and facial recognition. Although the BVAS malfunctioned during the 2021 Anambra governorship elections, the problems were addressed during the supplementary elections in Ihiala LGA.<sup>438</sup> The BVAS functioned more effectively during the 2023 general election. The table below summarises some of the innovations introduced by the Mahmood-led INEC.

Other significant contributions of INEC are outlined below:

- ♦ The Akpata-led INEC set strict conditions for registration of parties, in order to prevent the formation of regional or ethnic-based parties.<sup>439</sup> This was something that the earlier commissions, such as the ECF and FEDECO had failed to do, because they had no legal capacity to do so. However, the lesson was learned and the issue was first addressed starting with the Murtala-Obasanjo regime

<sup>437</sup> The Electoral Hub (2023). Electoral Accountability Matters! An Analysis of Nigeria's 2023 General Election. Abuja: IRIAD – The Electoral Hub. <https://electoralhub.org/publications/post-election-analysis/the-electoral-hub-2023-general-election-analysis/>

<sup>438</sup> See The Electoral Hub. (2021). *Deepening Democracy: Lessons from Anambra State 2021 Governorship Election* (The Electoral Hub Technical Paper 10/2021). <https://electoralhub.iriad.org/publications/technical-papers-briefs/deepening-democracy-lessons-from-anambra-state-2021-governorship-election/>

<sup>439</sup> The Carter Center/National Democratic Institute for International Affairs. *Observing the 1998-99 Nigeria Elections: Final Report, op. cit.*

transitional programme. The result of these strict conditions was that only three parties were registered to contest the 1999 elections: Alliance for Democracy (AD); All Peoples Party (APP); and the People's Democratic Party (PDP). Initially, two parties, but INEC decided to widen the field to enable AD to contest. Even at that, AD & APP formed an alliance for the Presidential Elections, which may be another lesson learned from the First Republic; particularly the 1964 elections.

- ✦ Guobadia was the first core scientist to head Nigeria's EMB, his thoughts turned to how technology could improve the process. INEC under Guobadia initiated the gradual adoption of technology in Nigerian elections. The setting up of the ICT department and the introduction of the first voter register database marked the onset of INEC's efforts at infusing technology into Nigerian elections.<sup>440</sup> These efforts have improved incrementally through successive INEC leaders, over the years.
- ✦ Engagement with stakeholders improved under the leadership of Professor Maurice Iwu. A partnership with development partners led to the creation of the Joint Donor Basket Fund.<sup>441</sup> This continued under Professor Jega, who signed a memorandum of understanding with the NYSC, and continued and deepened engagement with stakeholders, including the Inter-Party Advisory Council (IPAC),<sup>142</sup> development partners, and security agencies.<sup>443</sup> Professor Yakubu has also continued to engage with various stakeholders through an institutionalised regular periodic meetings and consultations.
- ✦ Under Professor Iwu, The Electoral Institute (TEI) was established to carry out research, voter education, and training of the Commission's staff, election workers, and security personnel. Staff welfare improved with the introduction of a hazard allowance, thirteenth month salary and a housing scheme. Iwu-led INEC

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<sup>440</sup> Guobadia, I. A. (2009). *Reflections of a Nigerian electoral umpire*. Benin: Mindex Publishing Co. Ltd. Pp, 180 - 181

<sup>441</sup> The Electoral Institute (2011, May). *An Overview of Election Management Bodies (EMBs) in Nigeria 1958-2010*. INEC.

<sup>442</sup> Under Professor Jega, IPAC was repositioned with an election in 2013 which held in INEC's conference room and was presided over by Amina Zakari the National Commissioner responsible for political party monitoring. Mrs. Toyin Babalola, Director INEC Legal Department was the Returning Officer for the election which was won by Yunusa Tanko, Chairperson of National Conscience Party -NCP.

<sup>443</sup> The Electoral Institute (2011, May). *An Overview of Election Management Bodies (EMBs) in Nigeria 1958-2010*. INEC.

also establish collaboration with SIECs through the Forum of State Independent Electoral Commissions of Nigeria (FOSIECON) and a bilateral collaboration with the NYSC.

- ◆ Under Professor Jega, INEC introduced a new biometric voter registration system, improved the security of election materials by introducing serial numbering and colour-coding of ballot papers and boxes; established the Inter-Agency Consultative Committee on Election Security (ICCES) to promote synergy across the security agencies involved in elections. There also emerged the institutionalisation of the process of the recruiting NYSC members as ad-hoc staff with the establishment of an INEC-NYSC Bilateral Committee, and the utilisation of university academics as returning officers on election day.<sup>444</sup>
- ◆ Under Professor Yakubu, INEC improved voter access to polling units by creating an additional 56,872 polling units in 2021.<sup>445</sup> This was aimed at reducing long queues and waiting times at polling units, and also bringing polling units closer to voters. Also, his Commission expanded access for PWDs by providing policy framework and assistive devices to aid their participation during election. The expected result of this measure was the improved voter turnout.

## 9.6 Challenges and Lessons

INEC has faced a myriad of challenges in carrying out its functions. In the early years, the Commission was severely affected by financial dependence on the executive. This financial dependence and its adverse consequence on maintaining the independence of the Commission was highlighted by former Chairman, Abel I. Guobodia who recounted the experience of INEC under his leadership, from 2000 to 2005 thus:

Maintaining the independence of the Commission in the absence of autonomy in its financial business transactions became an immediate

<sup>444</sup> Nwangwu, C., Onah, V. C., & Otu, O. A. (2018). Elixir of electoral fraud: The impact of digital technology on the 2015 general elections in Nigeria. *Cogent Social Sciences*, 4(1), 1-19. See also The Electoral Hub. (2020). *Milestones of Electoral Reform in Nigeria's Fourth Republic* (Electoral Hub Technical Paper 4/2020). <https://electoralhub.iriad.org/milestones-of-electoral-reform-in-nigerias-fourth-republic/>

<sup>445</sup> Adenekan, S. (2021, June 16). INEC creates 56,872 new Polling Units, bans voting in mosques, churches, palaces. *Premium Times*. <https://www.premiumtimesng.com/news/headlines/468074-inec-creates-56872-new-polling-units-bans-voting-in-mosques-churches-palaces.html>

Pressing issue. Establishment, Finance and Treasury circulars were frequently communicated to the Commission, not only for the purpose of keeping the Commission informed about the thinking of government, but in a manner which required the Commission's wholesale adoption and compliance irrespective of whether or not their provisions were suitable in the working environment of the Commission. In addition, the conditions of service of the Commission's employees were those approved for all public service workers. The Commission had no autonomy to unilaterally determine its own conditions of service that were best suited to its peculiarities. We also had to depend on the executive for funds before we made any new staff appointment. This invariably meant also, the approval of the government agency that was responsible for establishment matters.<sup>446</sup>

On the recommendation of the Uwais Report, this issue was resolved through an amendment to the 1999 Constitution in 2010, which made the Commission's funds a first-line charge on the consolidated revenue of the federation.

Although, to certain extent, the Commission's financial independence was increased; until 2022, the Commission still faced the challenge of late release of election funds, which was one of the factors that contributed to the postponement of the 2019 elections. However, the Electoral Act 2022 has addressed this, with the provision that the funds due to the Commission for any General Election should be released not later than one year before the next general election.<sup>447</sup>

From the Electoral Act 2022, it may be seen that INEC is saddled with many responsibilities apart from the conduct elections. The Uwais led ERC made several other recommendations among which was that certain responsibilities including those below relating to political parties and prosecution of offenders should be hived off to separate bodies:

- ♦ registering political parties and monitoring their organisation and operation;
- ♦ arranging for the annual examination and auditing of the funds and accounts of political parties and publishing reports on these for public information;

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<sup>446</sup> Guobadia, I. A. (2009). *Reflections of a Nigerian electoral umpire*. Benin: Mindex Publishing Co. Ltd, 180 - 181

<sup>447</sup> Section 3(3), Electoral Act 2022

- ✦ monitor political campaigns and providing rules and regulations to govern the political parties;
- ✦ prosecuting any offenders under the Election Act or appointing a legal practitioner to do so.<sup>448</sup>

This would enable the Commission to focus on the core mandate of conducting elections, as was successfully done by NEC from 1989 to 1993.

Furthermore, the frequent intervention of the judiciary has served as a challenge to the work of INEC. It has become a recurring pattern for defeated candidates to challenge election results in court. In too many cases, the judiciary has subverted the electoral process by declaring a candidate who did not win the popular vote as rightful winner of an election due to technicalities. For example, in 2008, the court adjudged Rotimi Amaechi as the PDP candidate for the governorship election of Rivers State, despite the fact that he had not been listed as a candidate by the electoral umpire during the polls. Similarly, in 2019, the court declared Senator Hope Uzodinma the rightful Governor of Imo State, even though he had ranked fourth on the polls. These two cases illustrate how judicial intervention poses a challenge to the work of INEC, turning the elections into little more than a mere charade.

Another major challenge to INEC has been insecurity. For a long time, INEC has had to operate in the context of the Boko Haram crisis, with numerous attacks on its offices. Although the Boko Haram crisis receded prior to the 2019 elections, there were yet instances of INEC offices being suddenly gutted by fire in circumstances that appeared like deliberate arson<sup>449</sup> and even after the elections, these attacks continued. As of 24 May 2021, it was reported that the INEC offices in 14 states had been attacked severally with a tally of not less than 41 times since the 2019 general elections.<sup>450</sup> Prior to the 2021 Anambra governorship elections, INEC's offices in Anambra State were exposed to criminal attacks, with the Awka office being set ablaze. All of these led to huge losses which drastically affected the Commission's preparation for elections.

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<sup>448</sup> Section 145 (2), Election Act 2022

<sup>449</sup> Onapajo, H. The tragedy of the umpire: the electoral management body and Nigeria's 2019 general elections, *op. cit.*

<sup>450</sup> Yusuf, K. (2021, May 30). TIMELINE: 41 INEC offices attacked in two years. *Premium Times*. <https://www.premiumtimesng.com/news/headlines/464658-timeline-41-inec-offices-attacked-in-two-years.html>



A further challenge that INEC has had to deal with is the proliferation of political parties. In the 2019 elections, as many as 91 parties had put forward candidates. This presented a logistical challenge for INEC, as the Commission had to print a very long ballot paper. It also made election administration more difficult and confusing for voters, as ballot papers contained a long list of candidates. In order to address this issue, INEC undertook a mass deregistration exercise following the elections, in line with Section 225A of the 1999 Constitution. Following that exercise, the 91 political parties were reduced to 18. However, this move has been criticised as some argue that it is better to adopt ballot access restriction mechanisms<sup>451</sup> than to deregister parties and prevent them from participating in the wider political process.<sup>452</sup>

Additionally, despite INEC's numerous efforts to improve the electoral process, the commission still faces challenges relating to the lack of internal democracy within the parties and a negative mindset about elections by the citizens, among others. As Guobadia noted, in the aftermath of the 2003 election, allegations of violence, malpractices and Irregularities presented a major cause of concern necessitating reform efforts that required constitutional amendment as well as a new Electoral Act.<sup>453</sup> Accordingly, Nwangwu, commenting on the 2011 elections, notes that “the outbreak of violence was not only as a result of poor handling of the elections by INEC but also a practical expression of frustration and disappointment as well as a demonstration of the 'do or die' attitude of the political elite to electoral contests”.<sup>454</sup> Clearly, INEC alone cannot conduct elections that are completely free and fair if other stakeholders do not play their parts well.

Also worth mentioning is an unprecedented challenge that the Commission has had to grapple with from March 2020 – July 2022,<sup>455</sup> the COVID-19 pandemic, which made conducting elections a public health risk. The Commission responded effectively with its policy on conducting elections in the context of the pandemic. As discussed in Chapter 1, this policy set out guidelines for Commission staff to take to ensure that elections were

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<sup>451</sup> Such as set criteria that political parties have to meet to be listed on the ballot.

<sup>452</sup> See The Electoral Forum. (2021). *Recommendations on Electoral Reform*.

<https://electoralhub.iriad.org/electoralforum/the-electoral-forum-recommendations-on-electoral-reform>

<sup>453</sup> Guobadia, I. A. (2010). *An Autobiography: My Four Seasons*. Benin: Mindex Publishing Co. Ltd, pp. 271 - 277

<sup>454</sup> Nwangwu, C. *Biometric Voting Technology and the 2015 General Elections in Nigeria*, *op. cit.*

<sup>455</sup> Covid-19 policy implementation and restrictions were still in place for the Ekiti and Osun governorship elections of June and July 2022

conducted as safely as possible. However, enforcement on election day has always been poor, as both election officials and voters have failed to comply with relevant guidelines.

## **9.7 Conclusion**

In its over 20 years of existence, INEC has made many significant contributions to the electoral process of Nigeria, notably in the area of technology, administration and management, legislation. As its financial and technical capacities improve, INEC has continued to develop innovative ways to improve elections in Nigeria. Although the Commission continues to face challenges, it can be reasonably concluded that INEC is the most successful electoral commission in Nigeria's history.



# Summary of Findings

Chapter

10

**T**he study examined the historical context, legal framework, gender representation, age demographics, regional representation, and other pertinent factors within the EMBs. The findings of the study on the inclusiveness in the composition of Election Management Bodies (EMBs) in Nigeria since 1958 shed light on several crucial aspects that impact the effectiveness and credibility of the electoral process. These important issues have been closely looked into with the aim to identify problem areas that would require improvement and, very essentially, to inform and guide future election-related policies and their implementation in the country. The study also looked at the evolution of various election management bodies in Nigeria, and the specific value added by successive EMBs to the development of the country's electoral system. Findings on each of the afore-stated areas of focus are discussed here.

## 10.1 Gender Representation

The study identified gender inclusiveness gaps in all EMBs from the pre-independence era to the contemporary times. The immediate pre-independence electoral umpire, the Electoral Commission (1958), and the immediate post-independence electoral umpire, the Electoral Commission of the Federation (ECF I & II) had exclusive male membership. The two FEDECOs, 1976 -1979 and 1980 -1983 which had 24 and 21 members respectively, only four were female. The National Electoral Committee (NEC) established in 1987, 1989 and 1993 had between one and three female members out of a total of the nine members. This already poor gender representation was worsened under the National Electoral Commission of Nigeria (NECON) which had no female member. This trend in poor gender inclusion still persists, with the Independent National Electoral Commission having only between one to four female members out of a total of 13 members from 1999 to date. This situation informs the need for affirmative action towards gender inclusivity in election management. At present, the Yakubu-led INEC has shown commitment to gender inclusivity by establishing the Gender and Inclusivity

Department, adopting an INEC Gender Policy, and ensuring over 35% affirmative action in appointments to director positions, with 10 of the 24 directors in INEC headquarters being women.<sup>456</sup> This number constitutes 41.6%. It is, however, worth mentioning that the appointment of more women as INEC commissioners is a requirement for an even better inclusion of women, especially in leadership within EMBs.

## 10.2 Youth Inclusion

There were some difficulties in determining the level of youth inclusion in EMBs due to a dearth of age-related data on the members of the electoral commissions. Despite constitutional amendments lowering the minimum age requirements for chairmanship and commissionership positions, data accessed in the study showed that youth inclusion has also remained low. The data reveals that only Rose Okoh who was appointed as Federal Commissioner under NEC after the June 12 1993 election was below 40. She was 37 as of the time of appointment. This age is, however, higher than the upper limit for youth age as established by the National Youth Policy (2019 – 2023).<sup>457</sup> There were a few Commissioners who were between 40 and 50, but a majority were in their 60s. This makes it necessary for deliberate efforts to be directed at including youths as members of the EMBs through policy instruments and affirmative actions.

## 10.3 Inclusion of People with Disability (PwDs)

From an investigation of the composition of EMBs in Nigeria, it was found that there was a complete lack of representation of PwDs among commissions' members. This stemmed, amongst other things, from an absence of legal provisions on the inclusion of PwDs. From the 1958 EC to INEC which has been functional since 1998 to date, there has not been any deliberate effort to include people with disabilities as commissions' members. The implication of this is that committee members might not put the needs of

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<sup>456</sup> IRIAD - The Electoral Hub & INEC Gender and Inclusivity Department (2024). Celebrating Women in Election Management; Remarks by the Chairman, Independent National Electoral Commission (INEC), Prof. Mahmood Yakubu, on the Occasion of the International Women's Day 2024 Held at the INEC Conference Room, Abuja, on Friday, March 8, 2024. <https://iriadng.org/remarks-by-the-chairman-independent-national-electoral-commission-inec-prof-mahmood-yakubu-on-the-occasion-of-the-international-womens-day-2024-held-at-the-inec-conference-room-abuja/>

<sup>457</sup> Federal Ministry of Youth and Sports Development (2019). National Youth Policy: Enhancing Youth Development and Participation in the Context of Sustainable Development. Section 1.3 <https://www.prb.org/wp-content/uploads/2020/06/Nigeria-National-Youth-Policy-2019-2023.pdf>

PWDs into account when introducing election policies and directives for participation. The ultimate impact would be the possible disenfranchisement of eligible PWD voters as well as candidates, if so desired by members of the communities. Beyond commission membership, INEC has increasingly exerted efforts at promoting inclusivity of PWDs. This is reflected in the Yakubu led-INEC's introduction of the Framework on Access and Participation of Persons with Disabilities as well as the introduction of special voting assistive materials such as magnifying glasses, braille guides, and papers to ease the participation of PWDs.

#### **10.4 Evolution and Value of Specific EMB and Commission**

The study reveals that the seven successive EMBs and Commissions in the country – from establishment years: 1958; 1960; 1963; 1976; 1987; 1995; and 1998 to date. The study has shown the evolution, leadership and specific value of each commission since 1958. Notably, Nigeria has undergone multiple transitions in its electoral governance, with various commissions overseeing the electoral process over these years. Their transition conducts have largely reflected the evolving political landscape and the country's commitment to achieving credible and transparent elections. However, the challenges of each EMB have not fundamentally changed in the last 60years. The most recent leader, Professor Mahmood Yakubu, has been in office since 2015 and is responsible for overseeing the Independent National Electoral Commission (INEC), close to nine years and supervising two general elections – 2019 and 2023. The table below provides a summary of the leadership of electoral commissions in Nigeria, and their respective tenures:

**Table 10.1: Leadership of Electoral Commissions in Nigeria, 1958 - 2023**

S/N	Name of Body	Chairperson	Tenure
1	Electoral Commission (EC)	Mr. R.E Wraith	1958 – 1960
2	Electoral Commission for the Federation (ECF)	Mr. R.E Wraith	1960 – 1963
3	Electoral Commission for the Federation (ECF)	Sir Kofo Abayomi <sup>458</sup>	1963 – 1964
		Mr. Eyo E. Esua <sup>459</sup>	1964 – 1965
		Chief Michael O. Ani	1965 – 1966
4	Federal Electoral Commission (FEDECO)	Chief Micheal O. Ani	1976 – 1979
5	Federal Electoral Commission (FEDECO)	Hon. Justice V. Ovie-Whiskey	1980 – 1983
6	National Electoral Commission (NEC)	Professor Ema Awa	1987 – 1989
7	National Electoral Commission (NEC)	Professor Humphrey Nwosu	1989 – 1993
8	National Electoral Commission (NEC)	Professor Okon Edet Uya	1993
9	National Electoral Commission of Nigeria (NECON)	Chief Sumner Dagogo – Jack	1995 – 1998
10	Independent National Electoral Commission (INEC)	Hon. Justice Ephraim O.I Akpata JSC (Rtd.)	1998 – 2000
11	Independent National Electoral Commission (INEC)	Dr. Abel I. Guobadia	2000 – 2005
12	Independent National Electoral Commission (INEC)	Professor Maurice Iwu	2005 – 2011
13	Independent National Electoral Commission (INEC)	Professor Attahiru M. Jega OFR	2011 – 2015
14	Independent National Electoral Commission (INEC)	Professor Mahmood Yakubu	2015 – 2020
15	Independent National Electoral Commission (INEC)	Professor Mahmood Yakubu	2020 – Till Date

As shown in this study, all electoral commissions since independence have all made salient contributions toward improving the Nigerian electoral process. The Electoral Commission (EC) established in 1958 was instrumental in drawing the curtain on colonial rule and ushering the country into the post-independence era. The commission also set two important precedents in the composition of EMBs in the country. These include membership representation across component units and the establishment of five-year tenure for members of the commission.

Similarly, the ECF of 1960 – 1963 had the intrinsic value of conducting the first post-independence election and delimitation of the country into 312 federal constituencies. The 1963-1966 ECF conducted the 1964/5 general elections.<sup>460</sup> The Federal Electoral Commission of 1976 was responsible for the transition from a 13-year military rule to a civilian administration. The election conducted by the commission in 1979 was the first presidential election in the country. Importantly, the composition of the Federal Electoral Commission reflected the first, albeit, limited step towards gender inclusion as the commission had four members. The National Electoral Commission (NEC) of 1987 was a peculiar case as it introduced the use of the open ballot system in Nigerian elections. This showed adaptive capability amidst the conduct of an election in an increasingly restrictive military regime.

The National Electoral Commission of 1995 (NECON) also has the value of being the first electoral commission established as a body corporate, capable of suing and being sued, in the Nigerian state. NECON was responsible for establishing the immediate past delimitation of constituencies. The current delimitation is direct adoption from NECON. The Independent National Electoral Commission (INEC) which came into force in 1998 has been the longest-standing election management body in Nigeria. The commission has overseen the conduct of seven successive elections in over 24 years of uninterrupted democratic experiment. The contributions of the commission to the country's electoral process have included the establishment of strict conditions for political party

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<sup>458</sup> Sir Kofo Abayomi resigned in April, 1964, he spent less than a year in office, but conducted the Mid-Western House of Assembly Elections of February 1964

<sup>459</sup> Eyo Eta Esua resigned on December 15, 1965 and was replaced by Michael O. Ani on December 16, 1965, the latter never sworn in, as ECF and other political structures were disbanded by the military after the Coup of January 15, 1966

<sup>460</sup> Fall, I. M., Hounkpe, M., Jinadu, A. L., & Kambale, P. (2011). *Election Management Bodies in West Africa. A Comparative Study of the Contribution of Electoral Commissions to the Strengthening of Democracy*. Johannesburg, Open Society Foundations.



registration to obliterate the existence of sectional political parties, the reduction of the unwieldy number of political parties, expansion of polling unit access by increasing the number of polling units in the country, the establishment of The Electoral Institute for research, voter education and training of the commission staff, incremental adoption of technology in the conduct of elections, amongst other innovative measures embarked upon to ensure electoral transparency, accountability and integrity.

### **10.5 Legal Frameworks Establishing EMBs**

This assessment of the evolution of election management bodies in Nigeria also accounted for the legal frameworks/instruments establishing successive EMBs in the country. It was found that the inaugural EMB, the EC (1958) was established under colonial rule through the Nigerian (Electoral Provisions) Order in Council of 1958. The immediate post-independence electoral umpire, the ECF I & II (1960/63), was established by the 1960 (Independent Constitution) and 1963 (Republican Constitutions) Constitutions. FEDECO, the first EMB following the extended period of immediate post-independence military rule, was established through the Federal Electoral Commission Decree No. 41 of 1977 and retained in Section 140(1) of the 1979 Constitution.

The National Electoral Commission (NEC) (1987) was established by the military through Decree 23 of 1987. This was amended under Decree 8 of 1989 and retained in Section 151 of the 1989 constitution. The National Electoral Commission of Nigeria (NECON) (1996) was established under Decree 3 of 1996 while the Independent National Electoral Commission (INEC) was established under Decree 17 of 1998. Following the return to civilian rule, INEC was reestablished under Section 157 of the 1999 Constitution.

It should not come as a surprise to note that EMBs in Nigeria have been largely a product of military decrees or constitutional provisions which specify their composition, mandate, powers and responsibilities. It is not a trite point to stress that the historical evolution of the EMBs have actually followed a historical trajectory, i.e., the roles of the British colonialism and military dictatorship, both of which have consequentially defined the kind of democracy the country has had to defined for its itself and also develop as it plods on.

## 10.6 Structure of EMBs

The study shows that the evolution of EMBs in Nigeria have been accompanied by changes and peculiarities in the Structure of these bodies. INEC for example operates at a three-level structure, having a headquarter in Abuja as well as State and Local Government Offices. The Chairman heads the headquarters, RECs head the state offices, and Electoral Officers (EOs) head the local government office. The Chairman and RECS are political appointees, whereas, Electoral Officers are permanent staff of the commission. In addition to this, there are also State Independent Electoral Commissions (SIECs) that are responsible for the conduct of local government elections from 2002 when elections were held in Rivers State and across the South Eastern states of Nigeria.<sup>461</sup>

Conversely, prior to the 1999 election, there had not been a SIEC. In 1960, on the attainment of independence, Nigeria had a 2-level structure, the Electoral Commission and the Regional Electoral Commissions. The chairman of the Electoral Commission for the Federation (ECF) was also Chair of the regional EMBs while members of the national EMB doubled as members of the EMB in their respective region.

Following the upheavals of the first republic and the attendant efforts of the military to improve national unity, there were no regional EMBs in the post-war period from the period of FEDECO to NECON. These EMB were therefore, responsible for the conduct of both federal, state and local government elections. Even under INEC, the Akpata-led Commission was responsible for the conduct of local government elections. It was only from the 2002 local government elections that the mandate for the conduct of elections in the third tier was shifted to separate EMBs at the state levels known as SIECs.<sup>462</sup>

## 10.7 Contributions of EMBs to Nigerian Democracy

From the study of the 1958; 1960; 1963; 1976; 1987; 1995; and 1998 EMBs, it was found that electoral umpires play a crucial role, not only in the conduct of elections but also in the strengthening of democracy. These EMBs using the instrumentality of electoral

<sup>461</sup> <https://allafrica.com/stories/200111130283.html>; <https://allafrica.com/stories/200112110230.html>

<sup>462</sup> Each state had its own SIEC with the SHoA legislating their specific establishment and governing laws.

Governance - a set of related activities that involves rule making (rules of electoral competition), rules application/implementation (organising the electoral game), and rules adjudication (certifying election results and resolving disputes).<sup>463</sup> In other words: “its rules, procedures and institutional processes, its legal and political framework, not only to separate administration from politics but also to manage constructively and promote diversity, as a public interest objective, in ways to engender a new democracy-promoting and - deepening political culture”.<sup>464</sup> All which according to Mozaffer and Schedler, are crucial variables in safeguarding the integrity and credibility of elections in democracies as it provides the required procedural certainty to secure the substantive uncertainty of democratic elections.<sup>465</sup>

This is evident in their role in planning, and conducting elections; and monitoring the activities of the political parties in ensuring electoral integrity as well as preventing electoral fraud through monitoring of campaign financing, and the adjustment of electoral practices to address emergent societal needs and demands. Legal instruments establishing EMBs in Nigeria have largely accounted for these diverse roles in specifying the functions and powers of EMBs. As such, even where lacunae are present, the performance of EMBs has provided the basis for the establishment of electoral reform committees, which should end up churning out recommendations for the improvement of the country's electoral practices. This is exemplified, epileptically but, somehow, gingerly, by the gradual adoption of election technology by INEC since Guobadia's efforts at establishment of an electronic electoral voter register ahead of the 2003 general elections, and also following the Uwais Committee Report, which proposed the adoption of technology in elections, as a step towards preventing the shortcomings of the widely criticized 2007 General Elections.

## 10.8 Impediments to the Effectiveness of EMBs

The study reveals that successive EMBs in Nigeria are faced with numerous challenges which threaten their effectiveness. These challenges are largely shaped by the existential

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<sup>463</sup> See Mozaffar, S., & Schedler, A. (2002). The Comparative Study of Electoral Governance—Introduction. *International Political Science Review*, 23(1), 5-27. <https://doi.org/10.1177/0192512102023001001>

<sup>464</sup> Jinadu, A. (2012). Preface. In *Report of the Registration and Election Review Committee*. Op cit. page XV

<sup>465</sup> Ibid

Realities of the epoch under which the EMBs were constituted. For example, during the military era, EMBs were confronted with the challenge of conducting elections in the absence of political parties, inconsistency of military decrees with judicial verdicts and attendant tectonic shifts in military policies which resulted in the cancellation of elections. There was also the case of the pervasive perception of the EMBs as a tool for the perpetuation of military hold on power. This was largely the case with NECON which was faced not only by the seeming unwillingness of the military leadership to go through with the transition programme, but also with widespread erosion of public trust, on account of the anti-democratic posturing of General Sani Abacha.

The EMBs were also faced with the challenge of infusion of communal conflicts and preexisting grievances in the electoral process demonstrated by the tendency to take out on the electoral system preexisting communal conflicts and grievances that plays out during campaigns and elections/polling as acts of violence, rigging and other electoral malpractices.<sup>466</sup> There are also cases of State Government interference. For instance, during Eme Awa NEC, the Lagos State government made adjustments to some electoral ward boundaries without informing or seeking guidance from the Commission.

Other challenges have included the limited tenure of EMB members which restricts continuity and institutional knowledge coordination and replications within the commission; calls for removal of chairperson by politicians when they are losing; judicial intervention in election cases which undermines the authority of EMBs; and the general presence of a political climate characterised by a widespread propensity to manipulate electoral processes and jeopardise the efforts of EMBs.

Addressing these challenges requires measures to reduce favouritism; to ensure longer tenures; to enhance technological integration; to minimise judicial interventions; to promote national integration; to foster a strong political culture; and to strengthen internal coherence and capacity within political parties, and their political processes and activities. Overcoming these challenges will contribute to a more robust and inclusive electoral process and governance in Nigeria.

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<sup>466</sup> See Awa, E.O. (1997). "Electoral Administration in the Early Transition". *op cit*

## 10.9 Experience and Capacity of EMB Members

A major finding from this study was that most persons appointed into the EMB as members had no prior election administration and management experience before their appointment. Although some chairpersons and commissioners of EMBs from 1958 to date have been persons with good knowledge of the Nigerian electoral process,<sup>467</sup> they have all had no prior experience in election administration and management. They essentially learned on the job. In the period between 1999 and 2023, under INEC, there have been a few exceptional cases where former Resident Electoral Commissioners (RECs) have been appointed into the Commission as members. Notable examples include Sumner Dagogo-Jack who served as a member of NEC 1989 and was later appointed as Chairman of NECON in 1995; the late Chief Olukemi Odebeyi who served as REC of Lagos State from 1999 to 2004 before her tenure as National Commissioner from 2003 -2006;<sup>468</sup> Professor Maurice Iwu who served as National Commissioner 2003 - 2005 before becoming Chairman in 2005; Sam Olumekun who, served two terms as REC in different States including Lagos State,<sup>469</sup> before becoming National Commissioner in 2022; and Adekunle Ladipo Ogunmola who served as REC between 2010 and 2015, and became National Commissioner in 2016.<sup>470</sup> A part of these few exceptional cases is the appointment of former directors as RECs. Notable examples here include Oluwatoyin Babalola and Aminu Idris, both of whom were Directors before their appointment as RECS in 2023. There is also the appointment of director to National Commissioner in the person of Kenneth Ukeagu in 2022.

Appointees to the Commissions have almost always had to learn on the job. Even when political scientists who are appointed to the commission often have theoretical knowledge of electoral processes, but without practical experience in election management. There is no space to learn before appointment into the commission. While capabilities may not be dependent on practical experiences, competence often comes from practice.

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<sup>467</sup> A number of the Chairpersons and Commissioners were political scientists which gives them theoretical knowledge of electoral administration and management

<sup>468</sup> She died in active service

<sup>469</sup> INEC (2022). INEC Welcomes Six New National Commissioners. <https://inecnews.com/inec-welcomes-six-new-national-commissioners/>

<sup>470</sup> <https://inecnews.com/dr-adekunle-ogunmola-national-commissioner/>

## 10.10 Limitations of the Study

The assessment of the composition of EMBs by gender and age contained in this book drew from an extensive range of primary and secondary sources, including interviews with former members of EMBs, official documents and critical assessment of autobiographies and memoirs of Ahmadu Kurfi, Secretary, FEDECO, 1976 – 1980; Humphrey N. Nwosu, Chairman, NEC 1989-1993; and Abel Guobadia, Chairman, INEC 2000 – 2005. Despite the combination of these range of sources, some data on the age and state of origin of former members of EMBs could not be gotten.

Specifically, of a total of 182 members of EMBs, dates of births of a total of 107 Commissioners were gotten, data on the region/state of origin of 150 Commissioners were gotten, and data on the gender of all Commissioners were gotten. Although a disaggregated assessment of the missing data on age reveals approximately 42% of the data on age is missing. An overall assessment of all data gathered shows that around 80.4% of the combined data on date of birth, region/state of origin and gender of members of commission were gathered. This formed the basis for the study's analysis of inclusivity within EMBs since 1958

It is worth noting that the gap in availability of data on details such as date of birth/age and state of origin of some members shows the extent of dearth of information on EMBs and on election-related issues in Nigeria. This demands the need for some serious concerted efforts at continual assemblage, compilation, publications, and data acquisition on the electoral management bodies in Nigeria as well as their contribution to the electoral process.



# Conclusion and Recommendations

Chapter



## 11.1 Conclusion

**S**ince the establishment of the ECF in 1958, certain precedents have been followed in all succeeding electoral commissions, such as the establishment of the commission by a statutory instrument, representation of sub-national units within the commission, appointment of members of the commission by the executive; and a five-year tenure for members of the commission. While the powers and functions of each commission have varied from time to time and from one executive authority to another, they have primarily revolved around the conduct of elections and registration of voters. There are many other responsibilities such as registration and supervision of political parties and prosecution of offenders. These two, in particular, have been regarded by some, including the 2008 Uwais-led ERC, as a distraction when the core workload of INEC is under consideration.

In terms of composition, none of the electoral commissions has done particularly well in the area of inclusion. Our analysis has shown that so far, no female has ever been appointed as the Chairperson of an electoral commission (Hajiya Amina Zakari only served as Acting Chairperson for a few months – from July to November 2015 - but was never appointed/confirmed). Even in terms of membership, the level of women representation was highest only under the Akpata-led INEC, where a third of the percentage of the members was constituted by the women. We have regressed once again to the state of low representation, having only two women in the management hierarchy of the INEC.

The situation is even worse for other groups, as no youth or PWD has ever been a member of the electoral commission. This lack of inclusivity within the composition of the commission, has implications for representation of marginalised groups in elective offices as this has equally remained poor.



In terms of managing the electoral process, the various electoral commissions have had varying degrees of success, with some high points like the 1993 and 2015 elections, and some low points like the 2003 and 2007 elections as well as the 2011 post-election violence. Nevertheless, it is clear that each commission has in one way or another made a significant contribution to the electoral process. This has been done through voter registration, delimitation, registration and monitoring of political parties, introduction of technology, experimenting with new voting systems (especially under NEC), and in the case of some commissions, conducting transition elections.

Although numerous commissions have been dissolved and reconstituted, since the establishment of INEC, which is the longest standing electoral commission in the country's history, there has been a sense of continuity. This is most evident in the area of technological innovation, as each commission builds on the technological advances made by the previous one.

The study also reveals an acute need for concerted efforts at the deliberate gathering, compilation and dissemination of election related data, the composition of EMBs in Nigeria as well as their efforts. The absence of these data and difficulties in gathering them despite exerting all efforts constituted a major constraint on this study.

Finally, from our analysis, it is evident that the task of ensuring a credible electoral process cannot be done successfully by the electoral commission alone. Elections are not conducted in a vacuum as the contexts in which elections take place determine how effectively the electoral commission can conduct credible elections. In effect, this means that other stakeholders have critically important roles to play: the legislature in providing an enabling legal framework; political parties in upholding internal party democracy; the executive and judiciary in maintaining minimal interference in the work of the electoral commission; security agencies in preventing violence and other malpractices; CSOs and development partners in supporting the work of the commission; and voters in exercising their right to vote.

## **11.2 Recommendations**

Based on this analysis, we make the following recommendations for improving the efficiency of INEC and the electoral process as a whole:

1. There is need to change the mode of appointment and removal of members of the Commission. As the Babalakin Report reveals, one of the reasons for the failure of the 1983 election is that FEDECO members were persons assumed to be in the President's favour.<sup>471</sup> The same was the case under NECON, as it was perceived that members of the Commission were there to do the bidding of the Abacha regime. In order to remove such perception, the modality for appointment should demonstrate and emphasise the values fairness, openness, accountability and inclusivity. It must also be based on merit not patronage with persons of character, courage and competence appointed and confirmed.
  
2. The appointment of the Chairperson in particular should be focus on character and quality of leadership. this is in recognition that the character of the leadership is as important as the regulations that governs them. This means the Chairperson should not only be someone with a wealth of experience but also someone that meets: ***knowledge, courage, carriage, and competence.***<sup>472</sup> These are the four key criteria for an EMB leadership to be able to handle the complex issues of election management.<sup>473</sup>
  
3. There is a need for express constitutional provision stating that the Chairman shall be the Chief Executive Officer of the Commission to avoid ambiguity as to who is the Accounting Officer of the Commission.
  
4. There is a need to increase the tenures of INEC members. With only five years for one term, the potential for continuity in the Commission is limited, and Commissioners who are not re-appointed are prevented from learning and improving in their second term. In this light, we agree with the recommendation in the Babalakin Report that at least a third of commission members should serve two terms always, provided that no member serves more than two terms.

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<sup>471</sup> Report of the Judicial Commission of Inquiry into the Affairs of Federal Electoral Commission (FEDECO) 1979-1983: Main Report. (November 1986).

<sup>472</sup> The Electoral Forum (2022). Policy Asks from The Third Technical Session of The Electoral Forum on 'Contentious' Areas for Further Electoral Reform

<sup>473</sup> Ibid

5. To improve gender inclusion within the INEC, there should be a statutory provision stating that a male: female gender ratio of 50:50 or 55:45 by percentage should compose the Commission. This affirmative action is necessary to improve the current dismal state of female representation in the Commission.
6. Promote youth inclusion within the electoral commission, we further recommend the appointment of special youth representatives within the commission. Although the 2010 amendment to the 1999 Constitution reduced the minimum age for Chairmanship from 50 to 40, and the minimum age for Commissioners from 40 to 35<sup>474</sup>, this change has failed to yield results as all Chairmen that have been appointed since the amendment have been over 50 years. Therefore, there is need for affirmative action to actively drive youth inclusion within INEC.
7. In order to improve inclusion of PWDs, we also recommend appointing at least one special PWD representative within INEC to cater for PWD issues. This is highly important, given the complete lack of PWD representation among Commission members.
8. Technology should be further integrated into the electoral process. Given the continuous evolution from OMR to DDC, from SCR and PVC to IReV, and now BVAS, it is evident that technology has improved the voter registration, accreditation, and results transmission process. When INEC has the required technical and financial capacity, it is recommended that the Commission should introduce technology into the areas of electronic voting and collation of results.
9. Judicial intervention in election cases should be reduced. The frequent cases, in which candidates secure victories not through the polls, but through the judiciary, takes power away from the EMB and subverts the entire electoral process.

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<sup>474</sup> 1999 Constitution, Third Schedule, Part 1, F-14(2b)

10. The government should implement measures to promote national integration, in order to prevent ethno-regional crises which paved the way for a military coup in the First and Second Republics. Better use can be made of agencies concerned with national orientation and integration, such as the National Orientation Agency (NOA) and National Youth Service Corps (NYSC). Collaboration was partly what led to the successes of NEC.
11. There is a critical need for political parties to achieve internal coherence and democracy; build confidence in the electorate; and build capacity in their party leadership while ensuring the best anchored on the democratic principle of inclusivity are elected into these offices. This will go a long way in reducing litigations and imposition of candidates/elected persons through the courts. The influence of money in politics should also be de-emphasised. The job of the EMB is not done if the effort at enhancing electoral process is lost because of vote trading.
12. The above may be better achieved if the responsibility for political parties is hived-off to a separate body such as a Political Parties Registration and Regulatory Commission as per the recommendations of the 2008 Uwais-led ERC.
13. Electoral offences do not appear to be dying out with the use of technology. Apart from the do or die attitude of certain stake-holders, the inability of INEC to make headway with prosecutions could be a factor. In this light it may be appropriate to consider the recommendations of the 2008 Uwais-led ERC to hive-off this function to a separate body such as an Electoral Offences Commission.
14. Ballot access restriction mechanisms should be adopted instead of deregistration of parties. This will not only ensure peoples' democratic freedom of association, but also make it possible to have as much participation as possible without INEC facing a logistical nightmare.

15. Finally, factors affecting the broader electoral system must be addressed through a multifaceted approach by all stakeholders, especially CSOs and academics. The latter were found to be an invaluable resource for NEC which greatly contributed to some of the successes. These factors include the winner-take-all syndrome; the failure to establish a well-developed political culture; and the negative mindsets concerning elections.<sup>475</sup> NEC was able to achieve orientation of voters to a degree by collaborating with MAMSER and CDS. MAMSER's today's equivalent is the National Orientation Agency (NOA).

<sup>475</sup> See Report of the Electoral Reform Committee. (December 2008), Vol 1; and Report of the Judicial Commission of Inquiry into the Affairs of Federal Electoral Commission (FEDECO) 1979-1983: Main Report. (November 1986).

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